

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Priority Physical Therapy & Rehabilitation
Petitioner

File No. 21-1178

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 22nd day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 29, 2021, Priority Physical Therapy & Rehabilitation (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the bill denials on July 20 and 26, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on August 6, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on August 6, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on August 25, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on September 3, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on May 26, 2021, and June 1, 2, 3, 7, 8, 9, 14, and 15, 2021. The Current Procedural Terminology (CPT) codes at issue are 97014, 97035, 97110, and 99072, and 97140 and 97530, with 59 modifiers. These procedure codes are described as electrical stimulation, therapy modalities, therapeutic exercise, miscellaneous services, manual therapy, and functional performance activities, respectively.

With its appeal request, the Petitioner submitted medical records which noted the following diagnoses for the injured person: strain/sprain with radiculopathy of both the cervical and lumbar areas, and pain in the right shoulder and right knee. The Petitioner also submitted a statement indicating that the injured person received treatment for complaints of pain ranging from 3 to 8 on a ten-point pain scale in the cervical and lumbar spine, right shoulder, and right knee. In its statement, the Petitioner questioned the Respondent's reliance on the Official Disability Guidelines' (ODG) recommendations for physical therapy in support of its denial.

In its reply, the Respondent explained that the ODG guidelines recommend that, over an 8-week time frame, 10 therapy visits are appropriate for a cervical or lumbar sprain/strain or for shoulder pain, and 9 therapy visits are appropriate for knee or arm pain. The Respondent stated that the Petitioner's medical records did not support the request for payment as "therapy was initiated on 9/08/2020 and 105 therapy sessions were given prior to 5/26/2021." The Respondent further stated in its reply:

Additional treatment exceeds the treatment guideline recommendations ... Per the re-evaluations of 2/8/2021, 3/8/2021, 4/7/2021 and 6/14/2021, it was noted that pain symptoms and decreased muscle strength persisted, however, range of motion was within functional limits for the spine, upper extremities and lower extremities, balance was good and the [injured person] was independent with transfers. Based on the records reviewed and/or lack thereof, in conjunction with the guidelines cited, denial of the [dates of service at issue] physical therapy services is recommended.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing physician who is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the ODG guidelines and evidence-based journal articles concerning physical therapy guidelines and standards specific to the injured persons’ conditions.

The IRO reviewer explained that the injured person had undergone 105 therapy sessions since beginning therapy on September 8, 2020 in relation to her neck, back, right shoulder and right knee problems. The IRO reviewer also noted that the injured person had “prolonged symptomatology” in relation to her conditions and further noted that the therapy included exercises and passive interventions such as moist heat, electrical stimulation, ultrasounds, and manual therapy.

The IRO reviewer opined that the aim of rehabilitation is to “reduce pain, reduce impairment or disability, and improve quality of life” and that “formal rehabilitative interventions are rendered, in conjunction with education, towards a goal of self-management, independent exercise, and remaining active.” The IRO reviewer explained:

The benefit of prolonged exercise and formal modalities in the form [of] physical therapy is not established in the medical literature ... There is no proven marginal benefit of prolonged formal therapy in the setting of persistent or chronic pain over independently pursued exercises and independently rendered interventions such as self-massage and topical treatments such as ice or heat.

The IRO reviewer opined that “the injured person did not have any documented impairments that would have precluded her from performing an appropriate independent exercise program, including stretching and strengthening, as well as independent soft-tissue and palliative interventions ... and topical treatments.” The IRO reviewer further stated:

There would have been no reasonable expectation of a marginally significant difference in clinical course or outcomes with the formal therapy in question over an appropriate independent program and the passage of time ... The injured person would have been expected to have some persistent symptomatology, just as she did despite receiving the therapy sessions during the [dates of service at issue]. The physical therapy services in question were not medically necessary for the injured person.

The IRO reviewer further opined that the therapy treatments rendered on the dates of service at issue were “well in excess” of what would be appropriate under the ODG guidelines in relation to the injured person’s conditions. The IRO reviewer explained that the ODG guidelines recommend “a series of visits that are gradually tapered over a period of about two to three months with progressive transition towards a fully independent program.” The IRO reviewer further noted that therapy for the back and neck could have been rendered concomitantly and noted that there were “no documented extenuating factors that would support therapy well in excess of those recommended” in the guidelines.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy treatments provided to the injured person on May 26, 2021 and June 1, 2, 3, 7, 8, 9, 14, and 15, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent’s determinations dated July 20 and 26, 2021.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

 Recoverable Signature

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford