

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

In the matter of:

**Therapeutic Healing
Petitioner**

File No. 21-1193

v

**Auto Club Insurance Association
Respondent**

**Issued and entered
this 6th day of October 2021
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On August 2, 2021, Therapeutic Healing (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 Auto-Owners Insurance Association (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 Petitioner a bill denial on July 20, 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 16, 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 16, 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 September 7, 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 15, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for in-home massage therapy treatments rendered on June 22 and 24, 2021, under Current Procedural Terminology (CPT) code 97140 which is described as manual therapy, manipulation. The Respondent's "Explanation of Benefits" relating to these treatments notes a diagnosis of spondylosis without myelopathy or radiculopathy in the cervical region.

With its appeal request, the Petitioner submitted a medical record from March 12, 2021, which indicated history of a 2010 cervical fusion (C4-C5) relating to injuries from a May 2007 motor vehicle accident. The Petitioner's supporting medical documentation for the dates of service at issue stated that the injured person presented with pain complaints in the neck and upper and lower back, and periodic weakness and numbness in the arms and fingers. The Petitioner's supporting documentation also indicated that the injured person benefitted from manual massage therapy, "consistently reporting lowered pain levels and less tightness" in her neck, shoulders, and back following treatment. The Petitioner also submitted a prescription for massage therapy dated July 30, 2021 from a nurse practitioner for 60 to 90-minute sessions, 2 times per week for 12 weeks.

The Petitioner's request for an appeal stated:

With manual treatments [the injured person's] hypertonicity and pain levels in her back, shoulders and thoracic region decrease post treatment. [The injured person] continues to report having more mobility with less pain in all the forementioned areas post treatment. Manual treatment continues to manage and even eliminate [the injured person's] headaches providing her a better quality of life. With manual treatment, [the injured person] is able to sit, stand and walk for longer durations of time which in turn provides her the ability to perform daily activities. Manual therapy has been successful in eliminating the tingling and numbness in [the injured person's] upper extremities.

In its reply, the Respondent reaffirmed its denial of the rendered treatments as not medically necessary and overutilized in accordance with American College of Occupational and Environmental Medicine (ACOEM) and Official Disability (ODG) treatment guidelines. The Respondent noted that the recommended maximum duration of massage therapy is 2 months and that treatment beyond that should be documented with objective improvement in function. The Respondent explained that the injured person had been attending massage therapy since January 24, 2019, including more than 30 sessions since February 20, 2021, and argued that "additional visits exceed guideline recommendations."

More specifically, the Respondent stated:

Subjective/objective findings do not support additional sessions, as these findings were unchanged from date to date with ongoing pain in the cervical region, bilateral upper trapezius, medial borders of scapula, in the shoulder and lumbar region, and periodic weakness and numbness throughout the arms and fingers.

Objective findings were also unchanged with forward head posture, head shifted to the right, medially rotated shoulders, arms and hands and limited range of motion of the neck and bilateral shoulders.

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 licensed physical therapist. 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 ACOEM and ODG Guidelines relating to the injured person's diagnoses and massage therapy for its recommendation.

The IRO reviewer explained that ACOEM treatment guidelines recommend 6 to 10 sessions of massage therapy for a range of 4 to 6 weeks for cervical and thoracic spine conditions. The IRO reviewer reiterated the ODG recommendation of 2 months maximum duration for massage therapy and that care beyond that may be indicated for individuals with chronic pain to improve function, decrease pain, and improve quality of life. However, the IRO reviewer stated that the submitted documentation did "not demonstrate any objective improvement in function from massage therapy sessions beyond 2 months from the start of care." The IRO reviewer stated that the injured person "had reached maximum medical improvement (MMI) and maintenance treatments prior to" the dates of service at issue and had unchanged complaints of pain in comparison to the March 2021 record. The IRO reviewer also noted no objective measurements were provided in the submitted records.

The IRO reviewer further opined that the treatments were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer stated:

[The injured person] has had an unknown number of total manual therapy sessions for 2.5 years, since start of care dated January 24, 2019. The [injured person] has had at least 26 massage therapy sessions from March 13, 2021 to June 22, 2021, exceeding both recommendations from ACOEM and ODG. The documentation did not demonstrate that these treatments were helpful in

improving function, decreasing pain, or improving quality of life. There was no documentation which included objective improvements in function on dates of service June 22 and June 24, 2021.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the massage therapy treatments provided to the injured person on June 22 and 24, 2021 were not medically necessary and were overutilized in frequency and duration in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER


The Director upholds the Respondent's determination dated July 20, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

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