

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

In the matter of:

Onward Therapy Services LLC
Petitioner

File No. 21-1202

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 1st day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 2, 2021, Onward Therapy Services LLC (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 Petitioner bill denials on July 20 and 21, 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 25, 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 25, 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 3, 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 massage therapy treatment rendered on July 2 and 9, 2021. At issue is Current Procedural Terminology (CPT) code 97124 which is described as therapeutic procedure, massage .

With its appeal request, the Petitioner submitted a physician's order for the injured person to receive 60 minutes of massage therapy once a week with no stated duration. The Petitioner also submitted a statement in which it indicated that the injured person's diagnoses include neck and bilateral shoulder pain, soft tissue mobility and tightness, muscle spasms and thoracic spine pain in relation to injuries sustained in a motor vehicle accident. The Petitioner's supporting documentation included medical records which noted that, on the dates of service at issue, the injured person complained of thoracic spine pain radiating to the lumbar spine and cervical pain radiating to the shoulders, mainly on the right side.

The Petitioner's request for an appeal stated:

During the [dates of service at issue], the [injured person] received massage therapy which consisted of Swedish massage, deep tissue, and myofascial release. Restorative care is required for [the injured person's] diagnosis and state of recovery to continue to facilitate his potential improvement; maximum improvement is yet to be attained...Without continued massage therapy, [the injured person] is at risk of increased pain and muscle spasms. [The Petitioner] provided reasonable and necessary massage therapy services to [the injured person.]

In its appeal request, the Petitioner also argued that the Respondent's reliance on American College of Occupational and Environmental Medicine (ACOEM) Guidelines and Official Disability Guidelines (ODG) for its bill review was inappropriate. The Petitioner stated that ACOEM and ODG guidelines are used for "common health disorders among workers" and "do not consider the need for all services to maintain the [injured person's] condition or to prevent or slow further deterioration."

In its "Explanations of Benefits," the Respondent cited ACOEM Guidelines in support of its denial. In its reply, the Respondent reaffirmed its position that the treatments at issue were overutilized and not medically necessary in accordance with medically accepted standards. The Respondent stated that, based on the injured person's medical records, pain in the "cervical area radiating to the top of the shoulders and pain in the mid thoracic region radiating to the lumbar spine, and muscle spasms persisted despite treatment." The Respondent further stated:

The medical records do not support this request as 10 massage therapy sessions were given between April 16, 2021 and June 25, 2021. Additional visits exceed recommended treatment guidelines. Additionally, the submitted documentation did not show any significant functional improvement from treatment.

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 supported on the dates of service at issue and the treatment was not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a board-certified physician in physical medicine and rehabilitation and in pain management. 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 Guidelines and medical literature concerning massage therapy treatment.

The IRO reviewer stated that on the dates of service at issue the injured person reported radiating cervical and lumbar spine pain and, on physical examination, muscles spasms were noted in the cervical, thoracic, and lumbar areas. The IRO reviewer explained that the ACOEM Guidelines indicate that "6 to 10 sessions of massage is recommended for select use in chronic cervicothoracic pain as an adjunct to more efficacious treatments consisting primarily of a graded aerobic and strengthening exercise program." However, the IRO reviewer stated that the 2 massage treatments at issue were appropriate based on the injured person's status of ongoing neck pain and spasms.

The IRO reviewer opined:

The injured person was noted to have completed 10 sessions prior to July 2, 2021; however, this injured person has noted ongoing neck spasm not responding to other treatments. Muscle spasms are typically treated with stretching and massage therapy. There are no noted side effects or negative issues related to this treatment. The two additional sessions would have been supported given ongoing findings. As such, the massage therapy visits on July 2 and July 9[, 2021] are appropriate and medically necessary.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that the massage therapy treatments provided to the injured person on July 2 and 9, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses the Respondent's determinations dated July 20 and 21, 2021.

The Petitioner is entitled to reimbursement of the amount payable under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

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



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford