

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. 21-1206

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 7th day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 3, 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, products, services, or accommodations 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 19, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on August 19, 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 19, 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 9, 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 23, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatment provided to the injured person on June 25, 2021, under procedure code 97124, which is described as therapeutic procedure.

In its appeal request, the Petitioner argued that it provided “reasonable and necessary massage therapy services to [the injured person].” The Petitioner submitted documentation which noted the injured person was involved in a September 2013 motor vehicle accident, resulting in a traumatic brain injury, pain to the neck, shoulder, and trunk, trouble sleeping, decreased range of motion, and muscle tightness. In a treatment note for the date of service at issue, the injured person presented with moderate pain along the spine, shoulders, and cervical area, rated a 5 out of 10 on a ten-point pain scale with difficulty sitting and maintaining posture. Additionally, the Petitioner included a physician order for massage therapy once a week from June 18, 2021 through August 18, 2021.

In its reply, the Respondent reaffirmed its denial of payment for the massage therapy treatment in accordance with ACOEM practice guidelines. The Respondent noted that practice guidelines state “objective improvements should be shown halfway through regimen,” and that treatment is not recommended for injured persons who are “not involved in a conditioning program or who are non-compliant with graded increases in activity levels.” Further, the Respondent stated:

The submitted records documented ongoing symptoms, but no significant functional benefit or objective improvement was documented. Additionally, there was no documentation to show that the [injured person] was also involved in a conditioning program that had both graded aerobic exercise and strengthening exercises. Based on the records reviewed and in conjunction with guidelines, the 06/25/2021 massage therapy is not 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.

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 date of service at issue based on medically accepted standards.

The IRO reviewer is a certified physical therapist with experience managing the medical condition, procedure, treatment, or issue under review. 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 Official Disability Guidelines by MCG related to massage therapy for pain for its recommendation.

The IRO reviewer opined that the most appropriate practice guidelines for massage therapy for the treatment of pain “remain to be the ODG guidelines.” However, the IRO reviewer noted that “without objective documentation to support the necessity of ongoing skilled massage therapy, the massage treatment” rendered on the date of service at issue is not medically necessary.

The IRO reviewer summarized the submitted documentation:

The patient is a 21 year old who presents with a diagnosis of traumatic brain injury as a result of a motor vehicle accident. Per the therapy note provided for review on 6/25/21, the patient complains of pain along the spine from the thoracic to lumbar area. There is pain at the top of shoulders and cervical area. The patient has difficulty with sitting and maintaining posture. Pain is rated as 5/10. The objective exam reveals the patient has limited range of motion in the thoracic and lumbar area as well as the shoulder area. Muscles involved include the bilateral trapezius, bilateral rhomboids, bilateral sacrospinalis, and bilateral quadratus lumborum. Myofascial release and massage were performed at this visit.

The IRO reviewer also noted:

Per the appeal letter dated 8/2/21, the provider notes the ACOEM and ODG guidelines are for common health disorders among workers but in this case, the patient was injured in a motor vehicle accident resulting in a TBI, neck, shoulder, trunk pain, decreased range of motion, trouble sleeping, and muscle tightness. Restorative care is required for this patient’s diagnosis to facilitate her potential improvement and response to therapy and there is expectation that anticipated improvement is still attainable. Without continuing massage therapy, the patient is at risk of increased pain, further limitations in range of motion, and trouble sleeping

The IRO reviewer further opined:

[A]lthough the patient may benefit from this intervention, only one note is provided for review on 6/25/21. Objective documentation of the patient’s response to this intervention and improvement with therapy thus far is not provided to support the necessity of ongoing massage therapy. As such, continued massage therapy is found to be not medically necessary.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent’s determination that the massage therapy treatment provided to the injured person on June 25, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated July 19, 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*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford