STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Triumph Chiropractic PLLC
Petitioner **File No. 21-1218**

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 5, 2021, Triumph Chiropractic, PLLC (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 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 a bill denial on July 12, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date[s] 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 chiropractic treatment provided to the injured person on June 16, 2021, under procedure code 98942, which is described as chiropractic manipulative treatment. On July

12, 2021, the Respondent issued the Petitioner an *Explanation of Benefits* letter denying payment for the treatment rendered based on the American College of Environmental Medicine (ACOEM) practice guidelines for low back, cervical, and thoracic spine conditions.

With its appeal request, the Petitioner argued that ACOEM practice guidelines were not intended to be used for traumatic injuries sustained in a motor vehicle accident. The Petitioner did not submit clinical documentation in its appeal request for the date of service at issue. In a letter included in its appeal request, the Petitioner stated that "the references listed in [the Respondent]'s denial of payment letter actually support that the treatment … was medically necessary."

In its reply, the Respondent reaffirmed its initial determination based on ACOEM practice guidelines. The Respondent noted that ACOEM practice guidelines recommend up to 12 visits over 6 to 8 weeks, typically one to three times a week, for severe spine conditions. Additionally, the Respondent noted that significant progression should be documented at each follow up, in accordance with practice guidelines. Further in its reply, the Respondent stated:

> Additional visits exceed recommended treatment guidelines. Chiropractic treatment began on 02/19/2021 and 27 treatment sessions were given prior to 06/16/2021. The 06/16/2021 chiropractic treatment notes indicate that the symptoms continued and that pain was rated 5/10. Spinal restrictions, hypomobility, aberrant motion, spasms and taut fibers to palpation, edema, and pain/stiffness and/or tenderness were present on examination. Significant objective functional improvement was not documented.

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 date of service at issue, based on medically accepted standards.

The IRO reviewer is a board-certified chiropractor. 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 clinical guidelines from the American Chiropractic Association for its recommendation.

The IRO reviewer opined that the documentation submitted with the appeal was not sufficient to substantiate the medical necessity of the chiropractic treatment rendered on the date of service at issue. Specifically, the IRO reviewer stated:

> There is no history of injury, patient examination notes or treatment records, no clinical discussion or care plan, no discussion of the care provided, and no documentation of objective benefit with the care provided. A diagnosis listing alone is inadequate to support any amount of care. The provided letter of dispute does not meet the standard of care for patient management or medical record keeping. There is no documentation to support any degree of care. In the absence of supportive documentation, the care cannot be considered medically necessary.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the chiropractic treatment provided to the injured person on June 16, 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 12, 2021.

This order relates only to the treatment, products, services, or accommodations 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 treatments 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