

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

In the matter of:

**Natural Touch Massage
Petitioner**

File No. 21-1226

v

**Pioneer State Mutual Insurance Company
Respondent**

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

ORDER

I. PROCEDURAL BACKGROUND

On August 6, 2021, Natural Touch Massage (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 Pioneer State Mutual 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 Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on May 28, 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 17, 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 17, 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 16, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments rendered under Current Procedural Terminology (CPT) code 97124 on February 9 and 24, 2021; March 3 and 10, 2021; April 7 and 21, 2021; and May 5 and 18, 2021. With its appeal request, the Petitioner submitted massage therapy notes which indicated the injured person's diagnoses as intervertebral disc degeneration in the lumbar region and low back pain and further noted that she had restricted movement in the neck, back, and hips. The Petitioner noted in its supporting medical documentation that following massage therapy treatment, the injured person improved in "hypertonicity, range of motion and strength in the muscles of the back, hips, neck, shoulders, and arm," felt less pain, and experienced increased range of motion.

The Petitioner's request for an appeal stated:

[The Petitioner] provided ... individual services for the [injured person] and she did state specific benefits from the massages. The bottom line is that [the Petitioner] provided 8 massages when the claims were open and should be paid accordingly. [The Petitioner] is not requesting an extension on services (even though it would medically benefit [the injured person]), but to be paid for the 8 massages provided ... Massage has benefited [the injured person] physically/mentally in many ways.

On April 20, 2021, the Respondent requested updated treatment notes and a plan of care from the Petitioner to support the medical necessity of the rendered treatments. The Respondent issued its determination on May 28, 2021, which included a review of records from the injured person's family practitioner and orthopedic surgeon. The Respondent stated that these records mentioned a fall and work-related exacerbations unrelated to the motor vehicle accident and noted the injured person also had trochanteric bursitis of the hip. In addition, the Respondent stated that the injured person's degenerative disc disease is not related to the accident. The Respondent relied on Milliman Care Guidelines in its determination that the "treatments exceeded the estimated timeframe for recovery" and were not medically necessary.

In its reply to the appeal, the Respondent reaffirmed its position that the rendered massage therapy treatments were not medically necessary and were overutilized in frequency and duration. The Respondent again relied on Milliman Care Guidelines. The Respondent further explained that the injured person received more than 100 massage therapy treatments. The Respondent noted that the injured person's history included massage therapy treatment between 2009 and 2011 with treatment resuming in 2017 until 2021. The Respondent stated:

Prior to determination, the [Respondent] reached out to the provider for explanation of medical necessity. The provider response indicated plans to continue massage despite lack of progressing, pain improvement or objective functional improvement. Further outreach, via phone, revealed treatment plan to continue until symptoms abate. At 13 years, status-post motor vehicle accident (MVA), symptoms abatement via massage therapy is not a likely outcome on the

basis of the records ... Records lacked documentation of rehabilitative progress ... Documentation demonstrated unchanged functional status over the course of 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 not supported on the dates of service at issue and the treatments were overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a licensed physician in physical medicine and rehabilitation and pain management. 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 American College of Occupational and Environmental Medicine (ACOEM) Guidelines and Occupational Medical Practice Guidelines for the cervical and thoracic spine in addition to current medical literature for treatment of the injured person's conditions for its recommendation.

The IRO reviewer stated that ACOEM practice guidelines recommend 6 to 10 sessions of massage for "select use in chronic cervicothoracic pain as an adjunct to more efficacious treatments consisting primarily of a graded aerobic and strengthening exercise program."

Specifically, the IRO reviewer stated:

[The injured person] was noted to have completed 102 sessions from October 7, 2009 through March 3, 2021. The number of sessions exceeds guidelines. Also, there was no noted functional response to warrant further treatment.

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 February 9 and 24, 2021; March 3 and 10, 2021; April 7 and 21, 2021; and May 5 and 18, 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 May 28, 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