

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

In the matter of:

**Kathy Emmett**  
Petitioner

v

File No. 21-1240

**Auto Club Insurance Association (ACIA)**  
Respondent

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Issued and entered  
this 22<sup>nd</sup> day of September 2021  
by Sarah Wohlford  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On August 9, 2021, Kathy Emmett (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 Club Insurance Association (Respondent) that the Petitioner overutilized 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 July 29, 2021. 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 Department accepted the request for an appeal on August 10, 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 10, 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 August 27, 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 7, 2021.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy services rendered on July 5, 9, 12, and 16, 2021.

The Petitioner, in the appeal request, stated that the claim denials were improper because the treatment of an individual with a catastrophic injury must be based on the individual's particular circumstances. The Petitioner argued that Medicare-based reimbursement would not be adequate for such individuals.

In its reply, the Respondent stated that the maximum duration for massage therapy is two months with the patient being re-evaluated at that time. According to the Respondent, the injured person began therapy with Therapeutic Healing on June 26, 2019, and received 139 manual therapy sessions as of June 18, 2021. The Respondent stated that "there was no documentation of objective improvement in function, and physical examination findings remained unchanged" and, for that reason, the claims were denied.

## 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 question of overutilization of medical services.

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 for the dates of service at issue and the treatment was overutilized in frequency based on medically accepted standards.

The IRO reviewer is a physician in active practice who is board-certified in physical medicine and rehabilitation with additional certification in electrodiagnostic medicine and acupuncture. In the 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 provided the following recommendation:

[T]he physical therapy treatments provided to the injured person on 6/21/2021, 6/25/2021, 7/5/2021, 7/9/2021, 7/12/2021, and 7/16/2021 were not in accordance with medically accepted standards as defined by R 500.61(i). ...The patient has received more than 40 massage therapy visits since 1/1/2021. No significant

functional benefit was documented. On 6/18/2021, 6/21/2021, 6/25/2021, 7/5/2021, 7/9/2021, 7/12/2021, and 7/16/2021, pain levels, strength, range of motion, and function were not documented. The medical documentation provided does not demonstrate meaningful improvement in symptoms or benefit on any of these dates, and therefore the treatments are not medically necessary. The peer-reviewed medical literature does not support physical therapy treatments on 6/21/2021, 6/25/2021, 7/5/2021, 7/9/2021, 7/12/2021, and 7/16/2021. Further the medical standard of care in the United States at this time would not include physical therapy treatments on 6/21/2021, 6/25/2021, 7/5/2021, 7/9/2021, 7/12/2021, and 7/16/2021.

[The] physical therapy treatments...were over utilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61 (i). The patient has received over 40 massage therapy visits since 1/1/2021 and no significant functional benefit has been documented. The medical documentation provided does not demonstrate any meaningful improvement in symptoms or benefit on 6/21/21, 6/25/21, 7/5/21, 7/9/21, 7/12/21, and 7/16/21.

Therefore, the treatments are considered over utilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61 (i).

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the treatment provided to the injured person on June 21 and 25, 2021 and July 5, 9, 12, and 16, 2021, was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

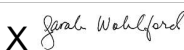
#### IV. ORDER

The Director upholds the Respondent's determination dated July 29, 2021.

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