

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

In the matter of:

**Therapeutic Healing  
Petitioner**

**v**

**File No. 21-1242**

**MemberSelect Insurance Company  
Respondent**

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**Issued and entered  
this 8<sup>th</sup> day of October 2021  
by Sarah Wohlford  
Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On August 9, 2021, Therapeutic Healing (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 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 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 1, 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 physical therapy services rendered on June 28 and July 3, 5, 9, 14, and 16, 2021. The injured person was diagnosed with dorsalgia (back/spine pain). He was injured in a motor vehicle accident in 2009 and a second accident in the fall of 2019. Most recently, the injured person had complaints of increased body stiffness and pain in the lower back and both legs.

The Petitioner submitted treatment notes for the June and July 2021 therapy sessions and a March 20, 2021 "Monthly Evaluation" report. In the appeal request, the Petitioner stated that the insurer's decision was "based on a blanket law that does not have any specifics." The Petitioner argued that auto accident injuries cannot be treated with the same limits that apply to other injury claims processed under Medicare rules. The Petitioner asserts that an insurance company nurse cannot be the judge of what is "best for the patient."

In its reply, the Respondent stated that the Petitioner's intake evaluation was completed on October 1, 2013, followed by fifty therapy sessions through June 25, 2021. The Respondent stated that additional visits exceeded the recommended treatment guidelines. The Respondent also noted that the injured person had temporary relief of pain and tightness but continued to have limited range of motion of the head, neck, and shoulder.

## 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. The IRO reviewer is a licensed doctor of chiropractic medicine with current experience in the services at issue in this appeal. 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 relied on evidence-based clinical guidelines including chronic pain treatment guidelines published by the American College of Occupational and Environmental Medicine (ACOEM) and Official Disability Guidelines, "Massage Therapy for Pain."

The reviewer concluded, based on review of the documentation provided and the medically accepted standards as defined by R 500.61(i), that the treatments in question constituted overutilization in frequency and duration. The reviewer wrote:

ACOEM guidelines for chronic pain recommend a frequency of 1 or 2 times a week for 4 to 6 weeks. The claimant has received 50+ treatments of massage therapy since January 2021. Additionally, ACOEM guidelines state that massage therapy is to be used "for time-limited use" in chronic cervicothoracic pain and/or chronic low back pain patients without underlying serious pathology as an adjunct to a conditioning program that has both graded aerobic exercise and strengthening exercises. The intervention is only recommended to assist in increasing functional activity levels more rapidly and the primary attention should remain on the conditioning program.

The reviewer recommended that the Director uphold the insurer's denial of coverage.

#### IV. ORDER

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

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X *Sarah Wohlford*

Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford