

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

In the matter of:

Northern Michigan Sports Medicine Center
Petitioner

File No. 21-1244

v

MemberSelect Insurance Company
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On August 2 and 9, 2021, Northern Michigan Sports Medicine Center (Petitioner) filed with the Department of Insurance and Financial Services (Department) two requests for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The requests for an appeal concern the determination of MemberSelect 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 Petitioner's appeals are 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 bill denials on July 21 and August 2, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the Petitioner's requests 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 requests for an appeal on August 10 and August 19, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed replies to the Petitioner's appeals on August 27 and September 7, 2021. The appeals were consolidated into the present case following the Department's receipt of the insurer's written responses to the Petitioner's appeal.

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 21, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on June 1, 2, 4, 7, 9, 11, 14, 18, 21, 23, 24, and 30, 2021. The Current Procedural Terminology (CPT) codes at issue include 97112, 97113, and 97014, which are described as neuromuscular reeducation, aquatic therapy, and electrical stimulation, respectively.

With its appeal request, the Petitioner submitted medical documentation, including a plan of care dated January 27, 2021 to treat bilateral knee pain, which indicated that the injured person would receive therapy 2 to 3 times per week for 6 to 12 weeks, followed discharge to a home exercise program (HEP). The stated goals of treatment included increasing strength, range of motion, and demonstrating an ability to perform activities of daily living (ADLs). The Petitioner also submitted a care plan dated April 23, 2021, for the physical therapy treatments noted in this appeal, which stated that the injured person would be seen 2 to 3 times per week for 5 to 12 weeks, with the injured person having met approximately 25 percent of the stated rehabilitation goals.

The Petitioner's request for an appeal stated:

The [Respondent] did not mention any limits for physical therapy when [the Petitioner] called to verify that the claim was open and active. Also, the referring physician has signed off our treatment plans stating [the injured person] would be seen 2 to 3 times per week for 6-12 weeks...The progress note done on May 24, 2021 states that there are still limitations for the [injured person] and they are still unable to perform ADLs at the same level prior to the injury.

In its reply, the Respondent reaffirmed its denial of the treatments for the dates of service at issue as not medically necessary and overutilized in frequency and duration, with reference to the applicable Official Disability Guidelines (ODG). The Respondent explained that the injured person completed 44 therapy sessions from January 27, 2021 through June 14, 2021 and that "additional visits exceed recommended treatment guidelines." The Respondent stated in its reply:

The submitted records indicated that subjective functional improvement in activities of daily living was none from June 18 through June 30, 2021. The June 24, 2021 progress report indicated only minimal improvement in bilateral knee active range of motion from the previous progress report.

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 treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is board-certified in physical medicine and rehabilitation and is in active practice. The IRO reviewer has knowledge in the care of patients involved in motor vehicle accidents. 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 American Academy of Family Physicians (AAFP) guidelines and medical literature relating to knee pain and osteoarthritis for its recommendation.

The IRO reviewer stated that limited functional improvement was noted from the rendered physical therapy treatments and that the treatments were overutilized in frequency or duration based on the injured person's treating diagnosis. Specifically, the IRO reviewer stated:

Physical therapy sessions should have been tapered down as she developed improving strength and safety and then graduated to a full self-directed HEP with the use of a brace to help reduce her fall risk. Also, [the injured person] could have benefited from a stronger emphasis on a HEP with either a self-directed program or an internet-based program once she reached [Manual Muscle Testing] of 3+ to 4-5/ and improving safety awareness. The introduction of a knee brace could have expedited [the injured person's] recovery and aided with some of her ADLs such as picking up laundry from the floor.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on June 1, 2, 4, 7, 9, 11, 14, 18, 21, 23, 24, and 30, 2021 were not medically necessary and were overutilized in frequency or duration in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determinations dated July 21 and August 2, 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