

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

In the matter of:

Diversified PT Specialists
Petitioner

v

File No. 21-1245

MemberSelect Insurance Company
Respondent

Issued and entered
this 8th day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 9, 2021, Diversified Physical Therapy Specialists (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 physical therapy 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 22, 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 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 23, 2021.

II. FACTUAL BACKGROUND

The injured person was involved in a motor vehicle accident on February 7, 2021 and was evaluated by the Petitioner on May 27, 2021. The Petitioner recommended physical therapy 2-3 times a week for four weeks for a total of 12 visits. Respondent provided coverage for physical therapy sessions on June 14 and 16, 2021 but denied coverage for five later physical therapy sessions on June 21, 23, 24, 28, and 30, 2021.

With its appeal request, the Petitioner submitted its May 27, 2021 Initial Evaluation and three Progress Notes dated June 16 and 30, 2021, and July 28, 2021. The bills for the disputed therapy sessions totaled \$1,120.00.

The Petitioner's request for an appeal stated that the injured person had made some progress and could perform daily tasks with minimal discomfort but still had pain when engaged in activity while in the supine position. As a result, the therapy plan was adjusted to reduce back spasms and pain.

In its reply to the provider's appeal, the Respondent stated that the therapy sessions after June 16, 2021 were not supported by the medical records and exceeded recommended treatment guidelines. The injured person showed only "minimal improvement in muscle strength" in re-evaluations on June 16 and 30, 2021.

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 is a matter of medical necessity and overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a physician in active practice for more than 26 years and who is board-certified in physical medicine and rehabilitation. 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 guidelines of the American College of Occupational and Environmental Medicine (ACOEM).

In its report, the IRO reviewer concluded that, based on the submitted documentation, the disputed therapy sessions "were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically

accepted standards, such as the American College of Occupational and Environmental Medicine (ACOEM) guidelines, 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 disputed physical therapy sessions were 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 22, 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:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford