

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

In the matter of:

Onward Therapy Services LLC
Petitioner

File No. 21-1249

v

Auto Club Insurance Association
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On August 9, 2021, Onward Therapy Services LLC (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 or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

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 Respondent issued the Petitioner a bill denial on July 26, 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 15, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments provided to the injured person on July 7 and 8, 2021 under procedure code 97124, which is described as therapeutic procedures including massage therapy.

With its appeal request, the Petitioner submitted clinical documentation for the dates of service at issue. Treatment notes indicated that the injured person's diagnoses included: other specified intracranial injury without loss of consciousness, personal history of traumatic brain injury, cervicgia, and chronic pain due to trauma. Further, the treatment notes list the injured person's pain as a 7 out of 10 on a ten point pain scale for the dates of service at issue. In a letter included with its appeal request, the Petitioner stated that it provided "reasonable and necessary massage therapy services to the injured person... to facilitate recovery."

In the Respondent's *Explanation of Benefits* denial letter to the Petitioner, it stated that medical records do not support the request for massage therapy treatments. The denial letter stated that the Respondent's determination is "in accordance with ACOEM guidelines" which state that "six to ten massage therapy session[s] are recommended for chronic cervicothoracic or chronic low back pain as adjunct to an exercise program."

In its reply, the Respondent reaffirmed its initial determination that the massage therapy treatments were overutilized and not medically necessary based on medically accepted practice guidelines. Specifically, the Respondent stated:

Additional visits exceed recommended treatment guidelines. The [injured person] received massage therapy treatment since January 2020, and has received at least 65 massage therapy sessions prior to 07/07/2021, with continued complaints of severe pain reported. There were no objective findings documented to show that the claimant had a positive response and functional improvement from the completed therapy sessions.

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 treatments 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 massage therapy treatments were overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing physician, board-certified in physical medicine and rehabilitation and a licensed attorney (IRO reviewer). 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 Milliman Care Guidelines and related medical journal articles for its recommendation.

The IRO reviewer opined that the massage therapy treatments provided to the injured person on July 7 and July 8, 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). Specifically, the IRO reviewer noted:

[T]he management of chronic benign musculoskeletal pains affecting body regions such as the neck and back due to injury can include pharmacological agents, rehabilitation, psychological treatment, complementary or alternative medicine, and invasive approaches. The [IRO reviewer] explained that the aim of rehabilitation in this clinical setting is to reduce pain, reduce impairment or disability, and improve quality of life. The [IRO reviewer] also explained that formal rehabilitative interventions are rendered in conjunction with education towards a goal of self-management, independent exercise, and remaining active. The [IRO reviewer] indicated that exercise and physical activity have low risk for adverse effects and are generally encourage[d] in the setting of these types of chronic pains.

The IRO reviewer further indicated that the:

[M]anagement and rehabilitation of traumatic brain injury can include various formal cognitive and functional assessments, gait and mobility interventions, therapy for improving other functional abilities, behavioral interventions, cognitive interventions, visual rehabilitation, communication rehabilitation, swallowing rehabilitation, sleep disturbances management, pharmacotherapy to improve awareness, pharmacotherapy for affective disorders, pharmacotherapy for behavioral disturbances, various other pharmacotherapies, vocational rehabilitation, and patient educations. The [IRO reviewer] indicated that formal passive modalities such as massage therapy, particularly on a long term basis, are not established in medical literature to be effective in the management of chronic benign musculoskeletal pains, whether associated with traumatic brain injury or not.

The IRO reviewer further opined that formal passive modalities, such as “massage therapy on a prolonged basis are not recognized in any generally accepted practice guideline, evidence based practice guidelines, or other guidelines developed by the federal government or national or professional medical societies, boards, or associations as appropriate management with respect to traumatic brain injury, chronic spinal region pain, or other type of chronic pain.”

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 July 7 and July 8, 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 determination dated July 26, 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