

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

**MemberSelect Insurance Company
Respondent**

File No. 21-1258

**Issued and entered
this 1st day of October 2021
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On August 10, 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 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 August 4, 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 11, 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 9, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy services rendered on July 8 and 22, 2021. The injured person is 51 years old. He was involved in a motor vehicle accident on September 4, 2010. He has had ongoing neck and back pain for which his physician prescribed massage therapy since 2014.

The Petitioner submitted medical records which noted the injured person had a diagnosis of neck, back, and shoulder pain. In the appeal request, the Petitioner 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 stated that "Medicare-based reimbursement" would not be adequate for such individuals.

In its reply, the Respondent stated that the requested physical therapy visits exceed the recommended treatment guidelines and that subjective and objective findings do not support ongoing treatment. In support of its conclusion the Respondent cited "Official Disability Guidelines – Pain." The Respondent wrote:

The claimant began treatment with Therapeutic Healing on 3/14/2014 and received more than 400 manual therapy sessions as of 7/8/2021. The treatment notes indicated that the claimant received temporary relief of pain, tension and restriction from the provided treatment, but there was no documentation of objective improvement in function, and physical examination findings remained grossly unchanged.

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 physician in active practice who is board-certified in physical medicine and rehabilitation. 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 for treatment of low back pain and other journal articles concerning the treatment of back pain.

The IRO reviewer observed that the injured person “has been receiving treatment for chronic back pain without sustained relief.” The reviewer noted that the North American Spine Society’s 2020 “Clinical Guidelines for the Treatment of Low Back Pain” has found that there is no measurable benefit of massage therapy or myofascial release for relief of chronic low back pain, as in the injured person’s clinical scenario. The IRO reviewer cited additional studies that reached a similar conclusion.

The IRO 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 in accordance with medically accepted standards. The reviewer recommended that the Director uphold the insurer’s determination.

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:

 Recoverable Signature

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford