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 **File No. 21-1266**

v

Auto Club Insurance Association
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On August 11, 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 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 29, 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 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 9, 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 17, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments provided to the injured person on June 28, 2021, and July 6, 8, 13, and 15, 2021. The massage therapy treatments were billed by the Petitioner under procedure code 97140, which is described as manual therapy techniques.

With its appeal request, the Petitioner submitted a physician's referral order from June 18, 2021 for massage therapy for 2 hours per week for 12 months to treat "upper and lower body spasticity" with a noted diagnosis of incomplete tetraplegia due to lesion at C6-C7. The Petitioner also submitted medical documentation for the dates of service at issue which noted that massage therapy treatments addressed pain and soft tissue restrictions in the neck, shoulders, legs, and back.

In its *Explanation of Benefits* letter to the Petitioner, the Respondent stated that the massage therapy treatments were denied in accordance with the American College of Environmental Medicine (ACOEM) and the Official Disability Guidelines (ODG) for pain. In its reply, the Respondent reaffirmed its denial and stated:

> Official Disability Guidelines state that maximum duration for massage therapy is 2 months. At 2 months, patients should be reevaluated. Care beyond 2 months may be indicated for certain chronic pain patients in whom massage is helpful in improving function, decreasing pain, and improving quality of life. In these cases, treatment may be continued at 1 treatment every other week until the patient has reached MMI (maximum medical improvement) and maintenance treatments have been determined. Such care should be re-evaluated and documented on a monthly basis. Treatment beyond 2 months should be documented with objective improvement in function. Per Official Disability Guidelines, 9-10 manual therapy visits over 8 weeks are recommended.
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> The medical records do not support this request as per the billing history the [the injured person] began manual therapy on 10/30/2015 and received treatment consistently through 08/05/2021. More than 45 manual therapy visits were given between 01/05/2021 and 07/15/2021 with continued complaints of pain, and objective findings of tension, restrictions, reactive spasticity in both legs when moved. No significant functional benefit was documented.

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 a licensed chiropractor with knowledge of massage therapy practices. 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 the ACOEM and the ODG guidelines regarding massage therapy and chronic pain for its recommendation.

The IRO reviewer noted that chronic pain syndrome was documented in the Petitioner's notes for the dates of service at issue. The IRO reviewer explained that ACOEM guidelines allow for 6 to 10 sessions of massage 2 times per week for 4 to 6 weeks with objective improvements evident "approximately half-way through the regimen to continue this treatment course." The IRO reviewer explained that ODG allows for 1 to 2 sessions of massage therapy per week for up to 6 weeks, and beyond that, treatment may continue every other week until the individual has reached maximum medical improvement.

The IRO reviewer opined:

> [Massage therapy] treatment beyond 2 months should be documented with objective improvement in function. Based on the medical records provided, the injured person has received 45+ treatments of massage from January 2021 to July 15, 2021 with no objective improvement noted in the records as a result of this treatment. The treatments in question were performed outside of the above medically accepted standards as described by ACOEM and ODG.

The IRO reviewer further stated that the massage therapy treatments were overutilized in frequency and duration in accordance with medically accepted standards. The IRO reviewer noted that the treatment of massage therapy for the injured person's spasticity was concerning. Specifically, the IRO reviewer opined:

> The treatments in question exceed ACOEM guidelines…Additionally, the prescription for care from [medical doctor] on June 18, 2021 is for massage therapy for upper and lower body spasticity. There are no recommendations in either ODG or ACOEM for utilizing massage therapy for the treatment of spasticity nor does there appear to be any peer reviewed evidence-based studies performed that support massage therapy as a medically accepted standards of care for chronic spasticity conditions.

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 June 28, 2021, and

July 6, 8, 13, and 15, 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 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:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford