

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. 21-1272

v

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 13, 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 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 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 two bill denials 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 20, 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 20, 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 16, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments rendered on June 22 and July 7, 2021, under Current Procedural Terminology (CPT) code 97124. The Respondent's *Explanations of Benefits* referenced the Official Disability Guidelines (ODG) and further noted that the injured person's treatment of more than 40 sessions since August 4, 2020 exceeded the guidelines.

With its appeal request, the Petitioner submitted supporting documentation which stated that the guidelines from the American College of Occupational and Environmental Medicine (ACOEM) and ODG are not appropriate in relation to the injured person's injuries sustained in a motor vehicle accident (MVA), which include bilateral shoulder and leg pain. The Petitioner stated it provided Swedish massage therapy.

The Petitioner's request for an appeal stated:

The guidelines do not consider the need for all services to maintain the [injured person's] condition or to prevent or slow further deterioration...[The injured person] continues to have mild tenderness in her bilateral shoulders due to the MVA...Without continued massage therapy, [she] is at risk of increased pain, limited range of motion (ROM) and trouble sleeping...[The Petitioner] provided reasonable and necessary massage therapy services to [the injured person].

In its reply, the Respondent reaffirmed its position. The Respondent stated that ODG guidelines recommend massage therapy treatment for 1 to 2 times per week for a maximum of 2 months and that treatment "beyond 2 months should be documented with objective improvement in function." The Respondent stated in its reply:

[The injured person] received 50 massage therapy sessions between August 4, 2020 and June 22, 2021 with ongoing symptoms, and there is no documentation of improving function, decreasing pain, or improving quality of life.

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, with additional certification in electrodiagnostic medicine and acupuncture. 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 ODG guidelines and medical literature for its recommendation.

The IRO reviewer explained that the injured person was involved in a motor vehicle accident in January 2019 and was treated for bilateral shoulder pain and bilateral leg pain. The IRO reviewer noted that on June 22, 2021, the injured person’s pain level was 2 out of 10 and on July 6, 2021, her pain level was 3 out of 10. The IRO reviewer also noted that the injured person had more than 40 previous massage therapy sessions. In addition, the IRO reviewer stated that, based on supporting documentation, the injured person was able to do a home exercise program including strengthening and range of motion exercises.

The IRO reviewer opined that the massage therapy treatments on the dates of service at issue were “not medically necessary as there [was] minimal pain and no documentation of significant improvement in pain levels, function, strength, range of motion, or quality of life” during the previous sessions. The IRO further explained that peer-reviewed medical literature does not include massage therapy in support of the treatment dates at issue. More specifically, the IRO reviewer stated:

The massage therapy services [for the dates of service at issue] were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i)...Massage therapy is not within the generally accepted practice guidelines, evidence-based practice guidelines or any other practice guidelines, including ODG, developed by the federal government, national or professional medical societies, boards, or association.

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 22 and July 6, 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