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
Petitioner

v **File No. 21-1279**

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 12, 2021, Onward Therapy Services (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 July 29, 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 September 1, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on September 1, 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 10, 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 29, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy services rendered on July 6 and 8, 2021. The injured person was involved in a motor vehicle accident in 1996, sustained a traumatic brain injury, and has

continued to have muscle weakness with pain in the lower back hip, neck, and shoulders, and spasms in the lower extremities.

The Petitioner submitted a copy of a massage therapy prescription from the injured person's doctor dated June 17, 2021. The Petitioner argued that the injured person continues to have pain which requires ongoing massage therapy.

In its reply, the Respondent stated that the medical records do not support the coverage request. According to the Respondent, Guidelines of the American College of Occupational and Environmental Medicine (ACOEM) state that six to ten massage therapy sessions are recommended as adjunct to an exercise program for chronic low back pain. Further, the Respondent stated that Official Disability Guidelines set the maximum duration of massage for chronic pain at two months.

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 licensed Doctor of Chiropractic Medicine. 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 including treatment guidelines for cervicothoracic pain and chronic low back pain published by the American College of Occupational and Environmental Medicine (ACOEM) and Official Disability Guidelines, "Massage Therapy for Pain."

The 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. The reviewer wrote:

> [T]he massage therapy treatments … were overutilized in both frequency and duration. ACOEM guidelines for cervicothoracic pain and/or chronic low back pain allow for 6 to 10 sessions of massage of 30 to 35 minutes each, 1 or 2 times a week for 4 to 6 weeks. Objective improvements should be shown approximately halfway through the regimen to continue this treatment course. ACOEM states massage therapy is for limited time use as an adjunct to a conditioning program that has both graded aerobic exercise and strengthening exercises. The intervention is only recommended to assist in increasing functional activity levels more rapidly and the primary attention should remain on the

> conditioning program. Furthermore, Official Disability Guidelines (ODG) also allow for 1-2 sessions a week for up to 6 weeks. Beyond 6 weeks, treatment may be continued at 1 treatment every other week until the patient has reached maximum medical improvement and maintenance treatments have been determined. Treatment beyond 2 months should be documented with objective improvement in function. Based on the medical records provided, the injured person has received 70+ treatments of massage since 06/23/2020 with no objective improvement noted in the records as a result of this treatment. There was no record available for my review from the referring doctor that documents ongoing functional improvement being made nor are there any records indicating that the injured person is in a conditioning program as per ACOEM guidelines. The treatments in question were performed outside of the above medically accepted standards as described by ACOEM and ODG.

The reviewer recommended that the Director uphold the insurer's denial of coverage.

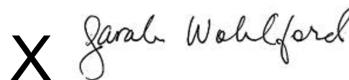
IV. ORDER

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
Special Deputy Director
Signed by: Sarah Wohlford