

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Oakland Chiropractic Clinic PLC
Petitioner**

File No. 21-1302

v

**MemberSelect Insurance Company
Respondent**

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

ORDER

I. PROCEDURAL BACKGROUND

On August 19, 2021, Oakland Chiropractic Clinic PLC (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 bill denials to the Petitioner on July 21, 23, and 26, 2021 and August 4, 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 24, 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 24, 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 2, 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 28, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for chiropractic treatments rendered on June 22, 26, and 29, 2021 and July 6, 10, 12, 20, and 24, 2021. The Current Procedural Terminology (CPT) codes at issue include 98942, 97012, 97110, and 97140, which are described as chiropractic manipulation, therapeutic exercise, mechanical traction, and manual therapy, respectively. The Petitioner noted in its appeal request that the injured person was involved in a motor vehicle accident on March 19, 2021.

With its appeal request, the Petitioner submitted medical documentation that identified the following diagnoses of the injured person: cervical disc degeneration, myositis, myalgia, right shoulder and left elbow pain, lumbar radiculopathy, intervertebral disc degeneration of the lumbar region, ligament sprains of the cervical and lumbar spine, and segmental and somatic dysfunction of the cervical, thoracic, lumbar, and sacral regions. The Petitioner stated that the injured person “responded well to current conservative chiropractic care” while the injured person was managing other medical conditions, including diabetes, lumbar spondylolisthesis, osteoarthritis, and neuropathy. However, the Petitioner stated that the magnetic resonance imaging (MRI) studies of the cervical and lumbar spine from July 3, 2021 revealed abnormalities including spondylosis, neuroforaminal narrowing, and central canal stenosis.

The Petitioner’s request for an appeal stated:

[The injured person] has been able to resume most of his activities of daily living (ADLs) and has not required the assistance of home care and medical transportation. He has improved in both symptomology and objective chiropractic findings. He continues to show functional improvement...I have recommended that he obtain an orthopedic surgical evaluation...In my opinion, he is not at maximum medical improvement...Our clinical goal is to restore [the injured person] to pre-injury status and attempt to avoid any future surgical intervention.

In its appeal request, the Petitioner argued that the American College of Occupational and Environmental Medicine (ACOEM) guidelines are “outdated and unrelated to chiropractic evaluations and determinations in the state of Michigan by independent medical evaluator (IME) peer reviewed chiropractic physicians.” The Petitioner stated that the Official Disability Guidelines (ODG) are consistent with the injured person’s diagnoses and include up to 38 total visits.

In its reply, the Respondent reaffirmed its denial of the chiropractic treatments rendered on the dates of service at issue. The Respondent stated it relied upon ACOEM guidelines and explained that 12 chiropractic visits over a range of 6 to 8 weeks “is appropriate for severe cervicothoracic spine conditions if significant progress is being made.” The Respondent further explained that “chiropractic care for chronic low back pain is recommended 1 to 3 times per week for 2 weeks” and the treatment plan “should be reassessed after each 2-week interval.”

The Respondent stated in its reply:

If there is no response after 4 weeks and two 2-week trials of different manipulation/mobilization techniques, it is unlikely that further [treatment] will be helpful. Chiropractic treatment should be discontinued if there is a lack of demonstrated continued functional benefit, there is a resolution of symptoms, or there is a failure to participate in an active rehabilitation program...The [injured person] continued with ongoing symptoms reported and no significant functional benefit 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. 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 and ACOEM evidence-based treatment guidelines relating to the injured person's soft tissue injuries and spinal conditions.

The IRO reviewer opined that the chiropractic treatments at issue were "overutilized and not medically necessary." The IRO reviewer stated that prior to June 22, 2021, the injured person received 21 chiropractic treatments, which included therapeutic exercise. However, the IRO reviewer noted that none of the Petitioner's medical records for the chiropractic treatments rendered on the dates of service at issue showed "any objective functional improvement" in the injured person's conditions or pain complaints.

Specifically, the IRO stated:

[The injured person's] complaints remain virtually the same from June 22, 2021 and July 24, 2021 and there is no description of objective improvements made in the [injured person's] activities of daily living or work ability. Based on the treatment previously provided by the chiropractor, the [injured person] should have been able to transition to a home exercise program after 6 to 8 weeks of one-on-one therapeutic exercises. The injured person at this time is beyond the acute phase of care.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determinations that the chiropractic treatments provided to the injured person on June 22, 26, and 29, 2021 and July 6, 10, 12, 20, and 24, 2021 were not medically necessary and were overutilized in frequency and duration in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER


The Director upholds the Respondent's determinations dated July 21, 23, and 26, 2021 and August 4, 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
Special Deputy Director
Signed by: Sarah Wohlford