**STATE OF MICHIGAN**

**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**Reflex Manual Therapy**
**Petitioner** **File No. 21-1518**

**v**

**MemberSelect Insurance Company**
**Respondent**

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**Issued and entered**
**this 14th day of February 2022**
**by Sarah Wohlford**
**Special Deputy Director**

# ORDER

## I. PROCEDURAL BACKGROUND

On October 1, 2021, Reflex Manual Therapy (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 bill denials on July 23, 2021, August 8, 2021, and October 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 December 6, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 6, 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 December 17, 2021. The Department issued a written notice of extension to both parties on January 24, 2022.

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 January 18, 2022.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for manual therapy treatments rendered on 11 dates of service[1] under procedure code 97140, which is described as manual therapy techniques. In its *Explanation of Benefits* letter issued to the Petitioner, the Respondent denied payment on the basis that treatment exceeded "the period of care for either utilization or relatedness." In its denial, the Respondent referenced Official Disability Guidelines (ODG) for chronic pain.

With its appeal request, the Petitioner rendered massage therapy treatments and submitted the subsequent medical records. The Petitioner's submitted medical records which indicated that the injured person was involved in a motor vehicle accident in May 2013 and sustained a traumatic brain injury (TBI), multiple orthopedic fractures, facial lacerations, a ruptured spleen, and left pneumothorax.

The Petitioner's request for an appeal stated:

> [The injured person] has shown slow but steady improvement in both pain reduction and range of motion during the two plus years [the Petitioner has] been seeing [the injured person] … since [the injured person's] main doctor has continued to provide scripts asking for massage/manual therapy that the limit of 9/10 therapy visits are mute [sic].

In its reply, the Respondent reaffirmed its position and referenced the American College of Occupational and Environmental Medicine (ACOEM) and the Official Disability Guidelines (ODG) and noted that for shoulder, back, neck, hip, and pelvis pain up to 10 visits over 10 weeks can be recommended. Additionally, the Respondent noted that "the medical records provided do not support the request as over 40 sessions of therapy have been provided."

Specifically, the Respondent's stated:

> The additional massage therapy well exceeds the ACOEM and ODG guideline recommendations, opportunity has been given to establish a conditioning program. Based on the records reviewed, and in conjunction with ACOEM and ODG Guidelines, denial of the 7/5/2021, 7/8/2021, 7/19/2021, 7/22/2021, 7/26/29/2021, 7/29/2021, 8/2/2021, 8/5/2021, 8/11/2021, 8/18/2021, and 8/25/2021, massage therapy services, are recommended.

## 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

[1] The dates of service at issue are July 5, 8, 19, 22, 26, and 29, 2021, and August 2, 5, 11, 18, and 25, 2021.

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 and duration based on medically accepted standards.

The IRO reviewer is a licensed physical therapist and has been active in clinical practice for 28 years. 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 guidelines from the Michigan Board of Massage Therapy, the American Massage Therapy Association (AMTA), the American College of Occupational and Environmental Medicine (ACOEM), and Official Disability Guidelines (ODG) for its recommendation.

The IRO reviewer opined that "none of the 11 massage therapy sessions were medically necessary and all were overutilized in frequency and duration." The IRO reviewer also specifically noted that the documentation provided by the Petitioner for review was insufficient to support medical necessity. Specifically, the IRO reviewer stated:

> The [Petitioner] only submitted 4 dates of service for the entire year of 2021, including only 2 clinical notes for sessions being reviewed: 07/22/2021 and 07/26/2021.

The IRO reviewer also noted that the submitted documentation indicated that the injured person's pain levels for the neck, left shoulder and left hip pre-treatment "always ranged from 4-5/10," and post-treatment "ranged from 1-3/10" with "no other measurable data" provided. The IRO reviewer opined that the submitted documentation did not adhere to the guidelines provided by the ACOEM, the Michigan Board of Massage Therapy, the AMTA, and ODG. Specifically, the IRO reviewer referenced the following from the aforementioned guidelines' standards:

> The American College of Occupational and Environmental Medicine (ACOEM) recommends 6 to 10 sessions of 30 to 35 minutes each, 1 or 2 times a week for 4 to 10 weeks.
>
> The Michigan Board of Massage Therapy, "Department of Licensing and Regulatory Affairs, Director's Office, Massage Therapy General Rules", states: "The licensee shall provide high quality care within the boundaries of the licensee's professional competence, based on education, training and experience. This includes, but is not limited to, the licensee only providing massage therapy services that ensure the safety of and benefit to the client".

> The American Massage Therapy Association recommends documenting in a SOAP format the intensity of pain using standard numeric values 0-10/10. It also recommends documenting if pain prevents the patient from participating in work, leisure, sports, exercises and/or sleep.
>
> Official Disability Guidelines (ODG) state massage therapy for chronic pain is recommended 1 to 2 times per week for an optimum duration of 6 weeks, maximum duration of 2 months. Patients should be re-evaluated after 2 months. Treatment beyond 2 months should be documented with objective improvement in function.

Based on submitted documentation and the aforementioned guidelines, the IRO reviewer opined:

> Objective benefit (functional improvement along with symptom reduction and opioid reduction) should be demonstrated after a trial of 5 sessions in order for further treatment to continue, for up to 10 visits during which a transition to a conditioning program is accomplished.
>
> The [injured person] in this episode of care has had approximately 40 massage therapy visits over the course of 2 years. There is no documented functional improvement in the records submitted for review and pain levels pre and post treatment did not improve for therapy sessions from 07/05/2021 to 08/25/2021.
>
> Clinical notes submitted for review were not documented in a [Subjective/Objective/Assessment/Plan (SOAP)] format. There was not documentation on how the pain was preventing the patient from participating in work, leisure, sports, exercises and/or sleep.
>
> Based on clinical notes submitted for review, the [injured person] did not benefit from massage therapy sessions from 07/05/2021 to 08/25/2021; pain levels reported pre and post sessions did not improve. Pain levels pre-treatment for the neck, left shoulder and/or left hip always ranged from 4-5/10, and post treatment always ranged from 1-3/10.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the treatment provided to the injured person on July 5, 8, 19, 22, 26, and 29, 2021 and August 2, 5, 11, 18, and 25, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

## IV. ORDER

The Director upholds the Respondent's determinations dated July 23, 2021, August 8, 2021, and October 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