STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Michigan Head & Spine Institute
Petitioner

v **File No. 21-1724**

Auto Club Insurance Association
Respondent

Issued and entered
this 12th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 11, 2021, Michigan Head & Spine Institute (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 for chiropractic manipulation and physical therapy 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 bill denial to the Petitioner on October 26, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue ($355.00).

The Department accepted the request for an appeal on December 2, 2021, and, pursuant to R 500.65, on that date notified the Respondent and the injured person of the Petitioner's request for an appeal. The Department provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed its reply on December 15, 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 December 28, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for chiropractic manipulation and physical therapy performed on September 2, 2021. With its appeal request, the Petitioner submitted the records of the therapy session. In an October 7, 2021 email, the injured person's chiropractor stated that the injured person has a "restricted range of motion with associated muscle hypertrophy." The chiropractor stated that the injured person "will benefit from chiropractic treatments in the area of improving range of motion, decrease in pain and attaining optimum functional health. He will also benefit from improved tonicity of affected muscles which in turn will allow him to return to his day-to-day activities with minimum pain."

In its reply to the Petitioner's appeal, the Respondent wrote in part:

> The medical records do not support this request as per history it appears over 50 sessions of chiropractic therapy prior to the date of service 09/02/2021 were provided which exceeds ACOEM guideline recommendations, for [the injured person's diagnoses] for the motor vehicle injury of 10/26/1998. The request for chiropractic therapy beyond 12 visits exceeds ACOEM treatment recommendations, and the documentation provided does not support additional chiropractic therapy treatment. The ongoing symptoms reported per documentation as "severe pain low back, spasms, neck pain constant and achy." A prior MVA [on] July, 2020 was noted. Documentation indicates ongoing symptoms even though multiple therapy treatments have been provided, per history it appears the same therapy since 2011, does not indicate long lasting functional improvement from previous treatment and does not indicate compliance with an active home conditioning exercise program and self-directed activity program.

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 overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a chiropractor in active practice for more than 32 years. In its report, the IRO reviewer concluded, based on the submitted documentation, that the treatment provided to the injured person on September 2, 2021, was not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer relied on guidelines set forth by the ACOEM. The IRO reviewer stated in part:

> [T]he injured person presented to the provider's office complaining of ongoing neck and back pain despite undergoing at least 50 chiropractic treatments.…[T]he requested 12 additional treatments exceed ACOEM guidelines.…[T]here is no compelling rationale

> presented or extenuating circumstances noted to support the medical necessity of this request as an exception to the guidelines.…[T]he ACOEM guidelines are the most appropriate practice guidelines for the dates of service in question.… [T]he injured person has received an extensive course of treatment for ongoing symptoms since 2011.…[D]espite this level of treatment, the injured person notes ongoing complaints suggesting that the treatment has become little more than maintenance or elective in nature and in such, is not supported for medical necessity. … [I]n this case, evidence-based guidelines indicate that additional quantifiable functional improvement is necessary for continued treatment to be considered medically necessary.… [I]n the absence of lasting quantifiable improvement and considering the fact the treatment has exceeded ACOEM guidelines, the treatment for the date of service in question is not medically necessary. Pursuant to the information set forth above and available documentation…the chiropractic treatments and manual therapy techniques provided to the injured person on 9/2/21 were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i).

The IRO reviewer recommended that the Director uphold the Respondent's denial of coverage for the therapy provided to the injured person on September 2, 2021.

IV. ORDER

The Director upholds the Respondent's determination dated October 26, 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