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Roberts vs. State Farm Insurance and the Medical Massage Controversy

By Vivian Madison-Mahoney, LMT

David Luther recently wrote a letter that created quite a stir throughout the massage industry. A class action lawsuit was bought against State Farm Insurance in the state of Pennsylvania titled, Roberts vs. State Farm. Mr. Luther stated that it was his company, the United States Medical Massage Association (USMMA) - formerly the American Medical Massage Therapy Association - that filed the class action suit against State Farm for **downcoding**. No references to this association are made on the docket or final settlement agreement. The case reads "Tracey Roberts (Plaintiff)" and states, "Tracey Roberts on behalf of herself and others similarly situated v. State Farm." The settlement agreement states that the suit was brought against State Farm for denying payment to massage therapists because they were not physical therapists.

In the letter, Mr. Luther stated that it was he who wrote the lawsuit's declaration at the request of his attorney. According to Luther's letter, his "declaration says that they [State Farm] must pay a 'medical massage therapist.'" His letter further states that when the judge asked him to define the term "medical massage" therapist: "We answered that they would be a Nationally Certified Medical Massage Therapist (NCMMT) through the Medical Massage National Certification Board," and adds, "We tried to add another clause: 'Or a member in good standing with the United States Medical Massage Association (USMMA),'" but that statement "will not be included in the decree."

The settlement agreement contains the words "medical massage therapists" many times throughout. Several concerned parties in the massage community have been writing to the attorneys and judge requesting reconsideration of that language prior to finalization. This situation has created much confusion, fear and anger. It is the opinion of many that if this (or any) case were to be ruled on with inclusion of terminology

such as "medical massage" or "medical massage therapist," it would open doors for individuals, organizations or associations to establish specific criteria that massage therapists would have to meet before they could be reimbursed by insurers. This could have a negative impact on the entire profession. Were this to take place and spread throughout the insurance industry, it could severely limit the right to work and seek insurance reimbursement by thousands of massage therapists, some of whom have been receiving reimbursement now for over 20 years.

I know this because I was doing this kind of work approximately 10 years before Mr. Luther came upon the insurance scene. I remember him praising me for my manual. He said that it "helped him to collect the outstanding insurance money owed to him while unable to do massage due to an accident." He even used my "original" manual to get his start with his own medical massage office manual. These are not "opinions," but provable facts.

We are all astounded that Mr. Luther, who oversees the USMMA (a membership association), the Medical Massage National Certification Board (MMNCB), and The Medical Massage Office and Associates (TMMO) (a company through which he offers seminars), is posturing himself to monopolize the entire massage therapy profession by writing his own declaration, trying through the court system to regulate therapists as "certified medical massage therapist[s]," and further requiring that these therapists be certified only through his organizations. It seems he is trying to require insurers to allow only his "certified medical massage therapists" the use of Current Procedural Terminology (CPT) Code 97140 or other codes already in our scope of practice.

Such a requirement would be in direct conflict with several states such as Florida and Washington that require insurers to reimburse massage therapists for procedures that are within their scope of practice. It would also be in conflict with the 2005 AMA CPT[®] code book, which clearly states in the introduction, "Any procedure or service in any section of this book may be used to designate the services rendered by any qualified physician or other qualified health care professional." Licensing, state and national certification and training have already qualified us.

Now, about downcoding: What is it? Downcoding is when an insurer/adjuster changes a code to one of a lesser value or cost and reimburses for that code instead of the originally billed code. In all of my years of investigating bills and denials for massage therapists, insurance auditing companies, and defense and plaintiff attorneys, it has been my experience that the insurance company does not make a habit of

downcoding, but actually reimburses for the code that reflected the prescribed and/or documented procedure or modality. For example, a physician writes a prescription for massage therapy but the therapist bills for myofascial release, neuromuscular re-education or others not designated on the prescription. The insurance company paid for what was only prescribed, leaving the therapist to feel that the claim had been "downcoded."

As a side note, I personally have no problem with those who use the term "medical massage" for certifying their courses and their offices or businesses, or to indicate that they specialize in working with doctors or medical referrals. What I object to are those who (without shared or documented proof) tell us that we **must** be certified in anything as a requirement to be reimbursed by insurance, or suggest that doctors are going to be required to refer only to "Medical Massage Therapists." Insurance companies reimburse for medically necessary care and treatment. What constitutes "medically necessary" is a medical diagnosis by a physician. What constitutes medical massage is the fact that the massage services are provided according to a prescription written with stated diagnosis by the treating physician.

If you believe I have overstepped my bounds, please forgive me. It is in the name of protection of our massage therapy profession, a profession in which we have all worked long and hard to build a positive reputation. If by some chance we are all misinformed, it is due to the letter and statements written by David Luther.

I would like to extend my sincere appreciation to the Business League for Massage Therapy & Bodywork, a Montana-based advocacy group, for their hard work and for bringing this situation to light.

Click [here](#) for more information about Vivian Madison-Mahoney, LMT.



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