

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Irvine Neuro Rehabilitation
Petitioner

v

File No. 21-1559

Auto Club Insurance Company
Respondent

Issued and entered
this 7th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On October 6, 2021, Irvine Neuro Rehabilitation (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 Company (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 nine bills 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 September 1 and 14, 2021 and on October 14, 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 November 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 November 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 December 8, 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 23, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for nine sessions of physical therapy provided to an individual injured in an automobile accident in 2002. Petitioner's physical therapy sessions were provided on August 4, 9, 11, 16, 23, 25, and 30, 2021 and September 1 and 20, 2021.

With its appeal request, the Petitioner submitted the records of the therapy sessions. In the appeal, the Petitioner wrote:

The complexity of [injured person's] neurologic and orthopedic injuries requires ongoing skilled therapy to address deficits with balance, gait, strength, neuromuscular and cognitive function. [The injured person's] severe safety limitations due to multiple and complex injury-related deficits establish a vital need for skilled therapeutic services to reduce the risk of additional functional decline leading to increased burden of medical care. As [he] lives with the debilities incurred after his traumatic motor vehicle accident, the delivery of professional, skilled, therapeutic services is an essential factor in managing his chronic condition adequately; and is a necessary and ethical provision of his care.

In its reply, the Respondent stated that the medical records do not support the Petitioner's request because the number of therapy visits exceeded the recommendations found in the guidelines of the American College of Occupational and Environmental Medicine (ACOEM). According to the Respondent, the injured person has received 147 therapy visits since December 4, 2019.

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/cost/services and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded, based on the submitted documentation, that the physical therapy treatments provided to the injured person on the dates in question were 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 is a physician in active practice for more than 26 years who is board-certified in physical medicine and rehabilitation. For its recommendation, the reviewer relied on the ACOEM guidelines. The IRO reviewer wrote:

Michigan Administrative Rules regarding Utilization Review provide that “medically accepted standards’ means the most appropriate practice guidelines for the treatment, training, products, services and accommodations provided to an injured person. These practice guidelines 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, boards, and associations.” R 500.61(i)...[F]unctional impairments due to traumatic brain injury (TBI) are amenable to a degree to rehabilitation interventions.... [R]ehabilitation in the acute and early periods after TBI is generally appropriate to address issues in the many domains that are affected by TBI such as sensorium, sleep and wake cycles, vision, cognition and communication, behavior, safety, swallowing and nutritional intake, motor tone, autonomic function, self-care, and mobility....[T]his acute or early rehabilitation can be critical to stabilize TBI survivors for community-based care or longer term institutional setting....[T]raining of caregivers to provide aid and supervision of TBI survivors as they convalesce in the community can be an important part of this rehabilitation.... [F]unctional deficits due to TBI can persist, particularly in the setting of severe TBI, which can include cognitive deficits, safety awareness deficits, and behavioral problems.... [B]enefits of formal rehabilitation in the long term in this clinical setting have been and remain unclear particularly with respect to promoting overall function.... [F]ormal rehabilitation on a prolonged basis is not recognized in any generally accepted practice guideline, evidence-based practice guidelines, or other guidelines developed by the federal government or national or professional medical societies, boards or associations as appropriate management with respect to TBI....[I]n this case, the injured person sustained a TBI and multiple musculoskeletal injuries due to a motor vehicle accident in 2002....[T]he injured person had chronic cognitive and physical impairments....[T]he injured person has impaired memory and decreased insight....[T]he injured person has been living in an assisted living facility with 24 hour per day assistance....[T]he injured person uses a wheelchair for functional mobility and requires assistance for transfers... [T]he most appropriate guidelines for the physical therapy treatments in question are the ACOEM guidelines....[T]he injured person underwent extensive physical therapy from 2019 to 2021....[and] continued to have functional deficits without indication of progress...[A]lthough the injured person had significant persistent functional deficits, the therapy under review was not beneficial or medically necessary....[T]here is no clinical guideline support for the therapy services under review in this setting.

The IRO reviewer recommended that the Director uphold the Respondent’s denial of coverage for the therapy services provided to the injured person on August 4, 9, 11, 16, 23, 25, and 30, 2021 and on September 1 and 20, 2021.

IV. ORDER

The Director upholds the Respondent’s determinations dated September 1 and 14, 2021 and October 14, 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