

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

In the matter of:

**Strength Training and Recovery**  
**Petitioner**

**File No. 21-1718**

v

**Auto-Owners Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 4<sup>th</sup> day of January 2022**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On November 15, 2021, Strength Training and Recovery (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-Owners 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 Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on October 8, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on November 15, 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 15, 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 November 27, 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 physical therapy treatment rendered on September 2, 2021 under Current Procedural Terminology (CPT) code 97110, which is described as therapeutic exercise. In its determination, the Respondent referenced Official Disability Guidelines (ODG) and noted that the injured person had been treated “extensively in the past” with physical therapy for an injury sustained 14 years ago and that “the extent of objective sustained functional improvement with therapy” was not provided for review. The Respondent further stated in its determination that “due to a lack of documentation supporting the medical necessity for ongoing therapy,” the injured person could have transitioned to a home exercise program.

With its appeal request, the Petitioner identified the following diagnoses for the injured person in relation to a motor vehicle accident in March of 2007: incomplete quadriplegia at C1-C4. The Petitioner documented in its medical record for the date of service at issue that treatment focused on upper and lower extremity stretching and passive range of motion exercises. The Petitioner noted that the injured person would “continue to focus on improving cervical mobility” in accordance with his care plan. The Petitioner also provided a progress note from August 26, 2021 which indicated that “due to the auto no-fault laws changing,” [the injured person’s] services were rearranged “which has caused a majority of his cancelled sessions lately.”

The Petitioner’s request for an appeal further stated:

According to the Official Disability Guidelines, the recommended course of physical therapy for an individual with a diagnosis of “fracture of vertebral column with spinal cord injury”... is 8 visits over 10 weeks. [The injured person’s] cervical level injury renders him incapable of independently moving his arms, legs, or trunk. [The injured person’s] only option for volitional movements include moving his head and shrugging his shoulders...[H]e also has difficulty with breathing due to the weakness of his diaphragm, he suffers skin integrity issues that need to be continuously monitored by wound care clinicians making him prone to pressure ulcers, he lives with increased and uncontrolled spasticity in his extremities, has fluctuations in blood pressure, and a frequent number of instances of autonomic dysreflexia ... Due to the severity of [the injured person’s] injury and unstable clinical presentation, [he] requires the high complexity clinical decision-making skills of a licensed professional. [His] significant list of comorbidities also complicates the trajectory of his progress in physical therapy.

In its reply, the Respondent reaffirmed its position and noted that an occupational medicine physician reviewed the records relating to the date of service at issue. The Respondent stated that “the goal of a supervised therapy program is to educate patients so they can be independent in their caretaking” and that “there are no barriers identified” to the injured person participating in a home exercise program. The Respondent stated that the injured person had received physical therapy treatment since his accident 14 years previously and, specifically with the Petitioner, since 2015. The Respondent concluded that the

injured person “has far exceeded the treatment plan outlined in the provider’s 7/14/2020 evaluation” of 2 times per week for a maximum range of 16 weeks and, further, that treatment exceeded ODG guidelines.

### 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 supported on the date of service at issue and the treatment was not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a licensed physical therapist who is board-certified in orthopedic physical therapy and knowledgeable of the medical conditions and type of treatment under review. 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 MD Guidelines for cervical and thoracic spine disorders and low back disorders for its recommendation.

The IRO reviewer explained that 4-6 visits of physical therapy are recommended “to initiate and begin to reinforce an exercise program” for individuals with subacute or chronic cervical spine pain. The IRO reviewer further explained that up to 6 initial visits of physical therapy is appropriate for individuals with low back pain to restore range of motion and motor strength.

The IRO reviewer stated that the injured person had received multiple previous therapy sessions since 2016 and noted that the number of sessions that the injured person attended had reduced since 2017, including missed or canceled sessions in 2021 prior to the date of service at issue. The IRO reviewer stated that, based on the documentation provided, the injured person exhibited “decreased core and diaphragmatic strength, uncontrolled bilateral upper and lower extremity tone, increased spasticity in bilateral lower extremities, and decreased cervical range of motion.”

The IRO reviewer opined that the injured person “continued to have functional deficits, therefore, additional physical therapy sessions would be appropriate.” The IRO reviewer further stated:

[The injured person’s] inability to attend therapy due to outside circumstances caused a regression of status that would need to be addressed with skilled physical therapy (PT) before transitioning back to his caregiver. Without the

treatment, he would continue to lose what mobility and independence he had and incur greater dependence and costs. This is evidenced by the patient developing a stage I pressure ulcer at his bilateral ischial tuberosities as a result of poor positioning in his chair due to increased tone and increased time spent in his wheelchair after he had not attended physical therapy for 2.6 weeks. ... The goal was to transition the patient to a status that would allow safe transition to a home program with assistance from his caregivers. Due to [the injured person's] comorbidities, extensive injuries, and limited independence the physical therapy treatments on 09/02/2021 were medically necessary.

The IRO reviewer recommended that the Director reverse the Respondent's determination that the physical therapy 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).

#### IV. ORDER

The Director reverses the Respondent's determination dated October 8, 2021.

The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the treatment on the date of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order."

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:

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X *Sarah Wohlford*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford