

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

In the matter of:

Carter Rehabilitation Center
Petitioner

File No. 21-1087

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 14th day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 24, 2021, Carter Rehabilitation Center (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, 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 pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. Petitioner now seeks reimbursement in the amount billed for the dates of service at issue.

The Department accepted the request for an appeal on July 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 July 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 July 20, 2021. The Department provided written notice of extension to both parties on August 17, 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 September 7, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for aquatic therapy treatments provided under procedure code 97113 on May 3, 5, and 10, 2021. On June 22, 2021, the Respondent issued the Petitioner an *Explanation of Review* denying the aquatic therapy treatments based on review of submitted documentation.

With its appeal request, the Petitioner submitted medical records for the dates of service at issue, which identified the injured person's diagnosis as pain in the left shoulder with a history of a motor vehicle accident in 2007. The injured person's initial examination documentation indicated "significant pain and tightness in the upper/trap/low cervical area to due muscular compensation." Progress notes for the dates of service at issue stated that the injured person's goals for aquatic therapy were to decrease complaint of "left upper trap pain to 7/10 at worst," as well as "improve left shoulder [active range of motion] by 5-10 [degrees] in all planes of motion to improve daily tasks," and to be "independent with [home exercise program.]" In a discharge note dated May 10, 2021, the injured person had successfully met the treatment goal of home exercise program independence.

In its reply, the Respondent reaffirmed its denial of aquatic therapy for the dates of service at issue. The Respondent stated that it relied on Official Disability Guidelines (ODG) physical therapy for shoulder conditions. Specifically, the Respondent stated the following regarding the medical necessity of the aquatic therapy treatments:

Per medical review, aquatic therapy is specifically recommended where a reduction in gravity or weight bearing is desirable (lower extremity or back injured for example). In is not indicated for the treatment of shoulder injuries as there is no reduction in gravity.

The discharge record on [the injured person's] seventh visit indicates that [the injured person's] range of motion (mobility) and pain level remained unchanged since the initial evaluation.

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 services 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, the aquatic therapy treatments provided to the injured person were not medically necessary based on medically accepted standards.

The IRO reviewer is board certified in physical medicine and rehabilitation. 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 Milliman Care Guidelines (MCG) for Aquatic Therapy and medical journals for its recommendation.

The IRO reviewer noted that practice guidelines state aquatic therapy is supported only when functional progress has been made during initial therapy, goals of therapy have not yet been met, the patient is actively participating in treatment and is following the home program recommendation, and there is expectation that improvement is attainable in a reasonable and generally predictable period. The IRO reviewer stated that the submitted documentation indicated that the injured person reported no change in symptoms during the aquatic therapy treatment.

The IRO reviewer opined that based on documentation provided, medical necessity of the aquatic therapy treatments on the dates of service at issue is not supported. Additionally, the IRO reviewer opined that the documentation does not indicate "an inability to perform land based physical therapy or home exercises," and there was not a clear reason aquatic therapy was needed. Further, the IRO reviewer noted that the injured person did not feel as though the aquatic therapy treatments were beneficial, and there was no expectation for improvement in the injured person's symptoms.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the aquatic therapy treatments provided to the injured person on May 3, 5, and 10, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

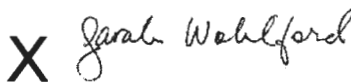
IV. ORDER

The Director upholds the Respondent's determination dated June 22, 2021.

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:

 Recoverable Signature



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford