

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

In the matter of:

Fyzical Therapy and Balance Center
Petitioner

File No. 21-1089

v

Frankenmuth Mutual Insurance Company
Respondent

Issued and entered
this 16th day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 25, 2021, Fyzical Therapy and Balance Center (Petitioner) filed with the Director of 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 bill denial of Frankenmuth Mutual 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. The 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 1, 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 1, 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 22, 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 August 13, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments on 14 dates of service¹ in March and April 2021 under procedure codes 97014, 97110, 97140, and 97112. The Respondent issued four *Explanation of Review (EOR)* letters dated May 12, 2021 and June 22, 2021, denying payment on the basis that the “treatment was not medically necessary and/or has extended above the usual range of utilization.” The Respondent’s EORs referenced the Official Disability Guidelines (ODG) regarding physical therapy treatments following arthroscopic surgery for a rotator cuff repair, that states 24 treatment visits over 14 weeks is recommended.

With its appeal request, the Petitioner states that the physical therapist and injured person feel that the treatments are beneficial for reducing pain, increasing range of motion, and use of arms overhead.

In its EORs, the Respondent states that the injured person received 62 physical therapy sessions prior to the dates of service at issue, exceeding the referenced guideline. In its reply, the Respondent explained:

[T]he documentation submitted for review did not indicate that the [injured person] could not actively participate in a home exercise program or that functional and/or pain improvements would not be made with a home exercise program. In addition, at the [injured person’s] last physical therapy session dated 4/21/2021 it was noted that the treatment plan was to discontinue therapy sessions and the [injured person] was to continue with [their] home exercise program. Per clinical note dated 04/21/2021, the claimant has had at least 76 sessions of physical therapy post right shoulder surgery that was performed on 7/16/2020. Therefore, this request would greatly exceed guideline recommendations and there was no clear indication that the claimant was unable to perform a self-guided home exercise program at that time.

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 treatments.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the physical therapy treatments rendered in March 2021 were medically necessary based on medically accepted standards. However, the IRO reviewer concluded that

¹ The dates of service at issue are March 22, 24, 26, 30, and 31, 2021; and April 2, 5, 7, 9, 12, 15, 16, 19, and 21, 2021.

the physical therapy treatments on the April 2021 dates of service were not medically necessary based on medically accepted standards.

The IRO reviewer holds an active physical therapist license. The IRO reviewer referenced R 500.61(i), in its report, 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 American Physical Therapy Association (APTA) clinical practice guidelines and medical journals for its recommendation.

Based on submitted documentation, the IRO reviewer indicated the injured person had a right rotator cuff surgery, subacromial decompression (SAD), and a Mumford debridement of calcific tendinitis in July 2020, following a motor vehicle accident in October 2019. The IRO reviewer stated that right rotator cuff surgery, a SAD, and a Mumford debridement of calcific tendinitis “can be expected to take more than six (6) months of rehabilitation,” and maximum benefit may not be reached for up to 12 months based on the injured person’s impairments and functional limitations.

A treatment record from March 1, 2021, stated that the injured person presented with decrease range of motion (ROM) in all planes of motion, and a decreased manual muscle test (MMT) leading to “decreased function of overhead motion, lifting and pushing and pulling.”

However, the IRO reviewer noted that the standard of care for physical therapy is to perform a re-evaluation or progress note every 30 days to support the medical necessity of treatment. Based on the submitted documentation, the injured person’s only progress report is dated March 1, 2021. The IRO reviewer opined that the progress note from March 2021 would support medical necessity of physical therapy treatments until March 31, 2021. Additionally, the IRO reviewer opined there was no documentation provided to support the medical necessity of physical therapy treatments following March 31, 2021.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent’s determination that the physical therapy treatments provided to the injured person on March 22, 24, 26, 30, and 31, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i). Further, the IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy treatments provided to the injured person on April 2, 5, 7, 9, 12, 15, 16, 19, and 21, 2021 were not medically necessary


IV. ORDER

The Director reverses the Respondent’s determination dated May 12, 2021; and upholds the Respondent’s determination dated June 22, 2021.

The Petitioner is entitled to payment in the amount of \$1,000.00, 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 is subject to judicial review as provided in section 244(1) of the Code, MCL 500.244(1).

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

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford