STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Walk the Line to SCI Recovery
Petitioner **File No. 21-1096**

v

Hanover Insurance Group
Respondent

Issued and entered
this 20th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. Procedural Background

On June 29 and 30, 2021, Walk the Line to SCI Recovery (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 determination of Hanover Insurance Group (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment and services under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner written notices of the Respondent's determination under R 500.64(1) on April 6, 16, 20, 23, and 24, 2021 and May 4, 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 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 2, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent did not file a written reply to the appeal.

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 20, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for treatments rendered on March 11, 15, 18, 22, 25, and 29, 2021 and April 5 and 8, 2021.

With its appeal request, the Petitioner submitted medical records regarding treatments rendered on the dates of service at issue, which indicated a diagnosis of quadriplegia (C5-C7 complete) in addition to chronic pain, cramp and spasm, neurogenic bowel, and neuromuscular dysfunction of bladder. The Petitioner also submitted a referral dated October 30, 2020, from a treating physician who noted additional diagnoses of neuralgia, neuritis, and "complete need for assistance with personal care." The referring physician prescribed "activity-based physical training and physical therapy" for 2 to 5 days a week for 6 months and noted goals of stimulating propriospinal pathways, gait training, promoting neuromuscular facilitation and sensorimotor biofeedback, and restoring functional mobility. The Petitioner's supporting medical records indicated rendered treatments that were consistent with the prescribed treatments.

With its appeal, the Petitioner also included a letter of medical necessity from a treating physical therapist for "skilled physical therapy."[1] The letter, which supported the referring provider's therapeutic care plan in addition to a home program, stated:

> [The injured person] requires continued skilled physical therapy at least two times a week to work on improving functional independence and safety. Without this frequency of physical therapy, this client is at risk of functional decline and reduced independence in their home and community. The complex nature of [the injured person's] diagnosis and deficits makes it crucial for him to participate in physical therapy under the guidance of a skilled clinician.

In the Respondent's determination letter dated April 6, 2021, it denied treatment as not medically necessary and requested a written explanation including current examination notes from a specific treating physician. The Respondent's determination letter dated April 23, 2021, denied treatment for medical necessity reasons. In its remaining determination letters, the Respondent indicated that treatment was not medically necessity and summarized its conclusion as follows: "PT one session/week for 6 months. Home exercise program (HEP) and maintenance therapy to be conducted by attendant care" and further noted that "maintenance therapy for spinal cord injury (SCI) is the standard of care."

The Respondent did not provide the Department with a reply to the Petitioner's appeal or other documentation in support of its determinations relating to the dates of service at issue.

---

[1] In their letter of medical necessity, the therapist referenced *Hornby TG et al. Clinical Practice Guideline to Improve Locomotor Function Following Chronic Stroke, Incomplete Spinal Cord Injury, and Brain Injury. J Neurol Phys Ther. 2020 Jan;44(1):49-100.*

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 is a matter of medical necessity 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 not supported on the dates of service at issue, and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is board certified in physical medicine and rehabilitation and is in active practice. 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 evidence-based literature regarding scientific exercise guidelines for adults with spinal cord injury.

The IRO reviewer opined that "the therapy services in question were consistent with maintenance exercises and not skilled therapy services." The IRO reviewer stated that the "therapy services in question were not medically necessary because formal therapy settings are not necessary or the most appropriate setting for maintenance exercises on a long-term basis." The IRO reviewer explained:

> Skilled therapy services aim at improving function and educating patients to become more independent...With respect to exercises, it is generally accepted practice for formal physical therapy to otherwise transition to an independent program that can be carried [out] by the patient on their own.

The IRO reviewer stated that the injured person was reported to require 24/7 attendant care in relation to his spinal cord injury. Reviewing the injured person's treatment for the dates of service at issue, the IRO reviewer noted that "no specific therapy goals were documented," and that the injured person's treatment was focused on improving muscle strength in the lower extremities, and that neuromuscular re-education was provided to improve upper and lower limb muscle activation, coordination, posture, and balance. The IRO reviewer stated that the medical records "showed minimal to no focus on the injured person's function outside of the therapy practice's setting" and that "there was no focus on the translation of any of the potential gains targeted in the therapy setting towards his home setting.

The IRO reviewer further stated:

> There was no description of how the injured person was doing his transfers at home and whether this was improving through the therapy he was receiving at the facility…There was no focus on training the injured person to become independent with his exercises…There was no documentation of a discussion about what equipment, if any, that the injured person had at home and why he had stopped exercising on his own…Addressing barriers to home exercise programs would have been consistent with skilled therapy services, but there is no evidence of this in the records provided.

The IRO reviewer noted that developing an independent maintenance therapy program would have been reasonable after the injured person's initial return to therapy in September 2019. The IRO reviewer opined that "no benefit in long-term clinical outcomes would have been expected with the continued therapy program in question over an appropriately fashioned independent maintenance program" and that the treatments provided were overutilized in duration in accordance with generally accepted medical standards.

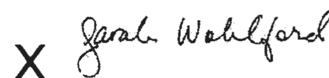
Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determinations that the treatments provided to the injured person on March 11, 15, 18, 22, 25, and 29, 2021 and April 5 and 8, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i), and were overutilized in duration.

IV. ORDER

The Director upholds the Respondent's determinations dated April 6, 16, 20, 23, and 24, 2021 and May 4, 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:



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Walk the Line to SCI Recovery **Case No. 21-1096**

Petitioner,

v

Hanover Insurance Group

Respondent.
______________________/

Petitioner:
Walk the Line to SCI Recovery
23800 W. 10 Mile Rd., Ste 193
Southfield, MI 48033
Email: lisa@wtlrecovery.com
Phone: 248-827-1100

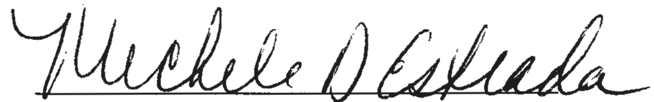
Respondent:
Hanover Insurance Group
440 Lincoln Street, S301
Worcester, MA 01615
Email: CICA-URAPPEALS@hanover.com
Phone: 508-755-5789

CERTIFICATE OF SERVICE

I certify that on August 23, 2021, I served a copy of the ORDER issued August 20, 2021, upon the following parties by email only:

Petitioner via Walk the Line to SCI Recovery at: lisa@wtlrecovery.com

Respondent via Hanover Insurance Group at: CICA_URAPPEALS@hanover.com



Michele D. Estrada
Legal Secretary
DIFS-Office of Research, Rules, and Appeals

August 19, 2021

Utilization Review Section
Office of Research, Rules, and Appeals
Michigan Department of Insurance and Financial Services
530 West Allegan Street, 7th Floor
Lansing, MI 48909-7720

RE: NO-FAULT INSURANCE UTILIZATION INDEPENDENT REVIEW
Case Number: 21-1096
Auto Insurer: Hanover Insurance Group
Health Care Provider: Walk the Line to SCI Recovery
Date(s) of Service: 3/11/21, 3/15/21, 3/18/21, 3/22/21, 3/29/21, 4/5/21, and 4/8/21
Maximus Case #: MI21-000043

Summary: The physical therapy services provided to the injured person on 3/11/21, 3/15/21, 3/18/21, 3/22/21, 3/29/21, 4/5/21, and 4/8/21 were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i).

Dear Utilization Review Section:

Maximus Federal Services, Inc. ("Maximus") is an organization that contracts with the Michigan Division of Insurance and Financial Services to provide independent reviews of No-Fault Utilization Reviews involving Michigan Insurers. Maximus review personnel and consultant specialty physicians are impartial. Maximus does not work for and is not affiliated with any Michigan Insurer.

On 8/12/21, Maximus was assigned this case for independent review of a no-fault insurance utilization determination. On 8/12/21, Maximus began its review of the case file. Maximus completed its review of the case file on 8/16/21.

This case has been reviewed by a practicing physicianwho is board certified in physical medicine and rehabilitation and by a licensed attorney on the Maximus professional appeals staff. The Maximus physician consultant has been in practice for more than 26 years. Based upon this review, the Maximus physician consultant determined that the physical therapy services provided to the injured person on 3/11/21, 3/15/21, 3/18/21, 3/22/21, 3/29/21, 4/5/21, and 4/8/21 were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i).

The purpose of this letter is to report the Maximus review findings and rationale.

Case File Abstract:

This case concerns a request for payment for physical therapy services provided to the injured person on 3/11/21, 3/15/21, 3/18/21, 3/22/21, 3/29/21, 4/5/21, and 4/8/21. On 6/28/21, a representative of the provider of these services wrote a letter in support of this request. This letter

explained that the provider continued to provide the skilled therapy as directed by the physician and certified each moth with a plan of care provided by the physical therapist. It also explained that the provider continued to treat the injured person since it was not aware of the utilization review in progress. It noted that it is the provider's policy that when utilization review has commenced on a client, it stops services so as to not be financially exposed in the event of a possible denial. It also noted that service to the injured person was stopped as soon as it was made aware of the utilization review. It explained that the injured person is not able to complete a home exercise program and that it is documented that when he does not participate in skilled therapy, he suffers from complications. It also explained that skilled therapy services are covered when an individual assessment of the patient's clinical condition demonstrates that the specialized judgement, knowledge, and skills of a qualified therapist are necessary for the performance of a safe and effective maintenance program and such a maintenance program to maintain the patient's current condition or to prevent or slow further deterioration is covered so long as the patient requires skilled care for the safe and effective performance of the program.

The Auto Insurer indicated that these services were not medically necessary for treatment of the injured person's condition.

The documentation provided for review included:

- No-Fault Utilization Review Provider Appeal Requests dated 6/28/21.
- Letter on behalf of Walk the Line Recovery Therapy dated 6/28/21.
- MEd Logix MI UR Determination Letters dated 4/6/21, 4/16/21, 4/20/21, 4/23/21, 4/24/21 and 5/4/16.
- Hanover Insurance Group Michigan Personal Injury Explanations of Review dated 4/12/21, 4/16/21, 4/22/21, 4/25/21, 5/4/21, 5/17/21, 5/18/21, and 6/8/21.
- Medical records from Walk the Line Recovery Therapy from 2/17/17 to 4/8/21.
- Referral form from Walk the Line Recovery Therapy dated 10/30/20.
- Insurance Assignment Authorization from Walk the Line Recovery Therapy.
- Letter of Medical Necessity for Skilled Physical Therapy on behalf of Walk the Line Recovery Therapy.
- Jimmo v. Sebelius Settlement Agreement Fact Sheet.
- Centers for Medicare & Medicaid Important Message About the Jimmo Settlement.
- Medical records from Michigan Abilities Center dated 1/31/21.
- Copy of fax confirmation.

Standard of Review:

In rendering its decision, Maximus has interpreted the rights and responsibilities of the parties in accordance with applicable Michigan Law, and generally accepted standards of coding and sound medical practice.

Recommended Decision:

The Maximus physicianconsultant determined that the physical therapy services provided to the injured person on 3/11/21, 3/15/21, 3/18/21, 3/22/21, 3/29/21, 4/5/21, and 4/8/21 were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i).

Rationale:

The Maximus independent physicianconsultant, who is familiar with the medical management of patients with the injured person's condition, has examined the medical record and the arguments presented by the parties.

The results of the Maximus physicianconsultant's review indicate that this case involves the request for payment for physical therapy services provided to the injured person on 3/11/21, 3/15/21, 3/18/21, 3/22/21, 3/29/21, 4/5/21, and 4/8/21.

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).)

The Maximus physicianconsultant explained that the injured person was involved in a motor vehicle accident in 2004 and sustained a C6 level sensory incomplete spinal cord injury. The physician consultant indicated that the injured person has been on disability and is reported to have 24 hours per day, 7 days per week attendant care. The physician consultant noted that the injured person presented to a therapy facility on 9/20/19 after not having been to therapy since February 2017 for an evaluation to reinstate therapy. The physician consultant noted that the injured person reported he had lost strength in his arm and he had been doing exercises in a program "from some time but did not continue." The physician consultant indicated that the injured person had not been bearing weight on his feet since that time and the reason for this was not further explored in the documentation provided for review. The physician consultant also indicated that whether or not the injured person had a standing frame at home was not documented and interim functional therapy was not investigated in detail. The physician consultant noted that the records provided for review are not clear whether the injured person had a manual or a power wheelchair. The physician consultant explained that on examination, the injured person's strength at the shoulders and elbows was rated generally in the poor plus to fair plus range. The physician consultant indicated that there was tightness and hypertonicity in the injured person's lower limbs. The physician consultant also indicated that the injured person required moderate assistance for chair to table slide board transfers. The physician consultant noted that it was reported that the injured person required therapy to improve strength, range of motion, mobility, and his bilateral foot wounds, which were felt to be at risk for worsening due to lack of movement and poor circulation. The physician consultant further noted that no specific therapy goals were documented. The physician consultant indicated that over the ensuing period, the injured person underwent manual therapy, therapeutic exercises, and services billed as neuromuscular re-education. The physician consultant noted that per the available therapy encounter notes, therapeutic exercises were focused on improving muscle strength in the injured person's lower extremities. The physician consultant also noted that manual therapy was provided to improve the injured person's passive range of motion and soft tissue mobility. The physician consultant further noted that neuromuscular re-education was provided to improve the injured person's upper and lower limb muscle activation, coordination, posture, and balance. The physician consultant indicated that the injured person spent time on a standing frame, ambulated with a gait trainer with moderate to maximal assistance of 2 persons to guide the swing and stance phases of gait, did arm exercises with resistance bands, and did modified prone plank exercises.

The Maximus physician consultant explained that based on the records provided for review, the therapy services in question were consistent with maintenance exercises and not skilled therapy services. The physician consultant explained that skilled therapy services aim at improving function and educating patients to become more independent. The physician consultant also explained, with respect to exercises, it is generally accepted practice for formal physical therapy to otherwise transition to an independent program that can be carried on by the patient on their own. The physician consultant further explained that the therapy services in question were not medically necessary in accordance with the cited standards because formal therapy settings are not necessary or the most appropriate setting for maintenance exercises on a long-term basis. The physician consultant indicated that the records provided for review showed minimal to no focus on the injured person's function outside of the therapy practice's setting, such as there was no focus on the translation of any of the potential gains targeted in the therapy setting towards his home setting. The physician consultant indicated that there was no description of how the injured person was doing his transfers at home and whether this was improving through the therapy he was receiving at the facility. The physician consultant also indicated that there was no focus on training the injured person to become independent with his exercises. The physician consultant further indicated that there was no documentation of a discussion about what equipment, if any, that the injured person had at home and why he had stopped exercising on his own. The physician consultant explained that addressing barriers to home exercise programs would have been consistent with skilled therapy services, but there is no evidence of this in the records provided for review. The physician consultant explained that after an initial return to skilled physical therapy in September 2019, it would have been reasonable to begin to develop an independent maintenance program for the injured person to pursue at the convenience of his residence. The physician consultant indicated that physical activity and exercise should be encouraged in the setting of chronic spinal cord injury to the extent that it is safely feasible.

The Maximus physician consultant explained that no benefit in long-term clinical outcomes would have been expected with the continued therapy program in question over an appropriately fashioned independent maintenance program. The physician consultant explained that the injured person did not require ongoing gait training given his impairments, level of injury, and lack of clinically pertinent goals related to this activity. The physician consultant indicated that the injured person could have pursued weight bearing on his legs using a standing frame and he could have received lower body passive range of motion from his attendants or caregivers. The physician consultant explained that continuing the injured person's physical therapy services at a formal therapy center through early 2021 for more than a year after resuming therapy at a time point that was more than 16 years post-injury was overutilization in duration with respect to the cited standards.

Pursuant to the information set forth above and available documentation, the Maximus physician consultant determined that the chiropractic treatments provided to the injured person on 3/11/21, 3/15/21, 3/18/21, 3/22/21, 3/29/21, 4/5/21, and 4/8/21 were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i). (Martin Ginis KA, et al. Evidence-based scientific exercise guidelines for adults with spinal cord injury: an update and a new guideline. *Spinal Cord.* 2018 Apr;56(4):308-21. Tweedy SM, et al. Exercise and Sports Science Australia (ESSA) position statement on exercise and spinal cord injury. *J Sci Med Sport.* 2017 Feb;20(2):108-15.)

Sincerely,

Maximus Federal Services, Inc.
State Appeals