

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

In the matter of:

NeuroRestorative Michigan
Petitioner

File No. 21-1104

v

Frankenmuth Mutual Insurance
Respondent

Issued and entered
this 31st day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 7, 2021, NeuroRestorative Michigan (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 Frankenmuth Mutual Insurance (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 Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on May 20 and June 8, 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 13, 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 13, 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 August 3, 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 11, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered over 24 dates of service occurring from March 1, 2021, through April 28, 2021.¹ The treatment provided is identified under the Current Procedural Terminology (CPT) codes as 97110, 97530, 97140, 97750. These codes relate to physical therapy services that include therapeutic exercise, therapeutic activities, manual therapy, and functional capacity testing, respectively. The Petitioner's supporting documentation included a letter of medical necessity and treatment notes for the dates of service at issue.

With its appeal request, the Petitioner stated that the treatment provided was medically necessary based upon the injured person's diagnoses. The Petitioner provided further explanation in its appeal, stating:

Physical therapy is needed and warranted due to the diagnosis trochanteric bursitis, thoracic spine pain, low back pain, and pain in left arm. Also, the [injured person's] current diagnoses that is being treated and weakness is directly related to the motor vehicle accident, which requires comprehensive pain management and rehabilitation. Physical therapy is needed to maintain function, pain control as well as improve function. During Covid-19 pandemic the [injured person] was unable to attend physical therapy and declined function due to this.

In its determination, the Respondent denied payment and noted that the physical therapy treatments provided under procedure codes 97110, 97530, 97140, and 97750 were not medically necessary. The Respondent further noted that:

[I]n accordance with ODG guidelines, the requested services exceeds guideline recommendations of 6-10 sessions of PT/OT. [The injured person] has received in excess of 40 sessions to date. Based on records reviewed and/or lack thereof, in conjunction with the guidelines cited, denial of treatment/services is recommended. In addition, in accordance with ACOEM shoulder pain treatment physical therapy hip pain overview guidelines, there is limited information on the cause of the [injured person's] pain and weakness and how it is related to the MVA.

In its reply, the Respondent reaffirmed its position that the physical therapy treatments provided on the dates of service at issue were not medically necessary. The Respondent noted the following:

A prior denial of payment for this treatment was made as medical records received did not support the request for payment. The request was denied for overutilization per cited medical standards. In accordance with the American College of

¹ The Respondent's denial dated May 20, 2021, included the following dates of service: March 1, 3, 4, 8, 10, 12, 17, 19, 22, 24, 26, 29 and 31, 2021. The Respondent's denial dated June 8, 2021, included the following dates of service: April 5, 7, 9, 12, 14, 16, 19, 21, 23, 26, and 28, 2021.

Occupational and Environmental Medicine (ACOEM) and ODG guidelines a home exercise program is recommended and should have been established well before 53 sessions.

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, the physical therapy treatments provided on March 1, 3, 4, 8, 10, 12, 17, 19, 22, 24, and 26, 2021 were medical necessary. However, the IRO reviewer concluded that based on the submitted documentation, the physical therapy treatments provided on March 29 and 31, 2021 and April 5, 7, 9, 12, 14, 16, 19, 21, 23, 26, and 28, 2021 were not medically necessary and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a physical therapist with 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 guidelines issued by the American Physical Therapy Association (APTA).

The IRO reviewer opined that physical therapy services provided to injured person for 11 dates of service in March 2021 were medically necessary in accordance with medically accepted standards. The IRO reviewer explained that the:

[Injured person] was diagnosed with trochanter bursitis, thoracic spine pain, low back pain, and pain in the left arm requiring comprehensive pain management and rehabilitation. During the COVID-19 pandemic, [injured person] was unable to attend in-person physical therapy and had a decline in function. Per documentation, the treatments rendered on March 1, 3, 4, 8, 10, 12, 17, 19, 22, 24, and 26, 2021 did assist the [injured person] in regaining function to a certain level and not decline, and/or become totally dependent on caregivers. The rendered functional therapeutic exercises, therapeutic activities, and neuro-muscular proprioceptive exercises were beneficial in assisting [injured person] to be functional at a certain level. In addition, education to the family regarding carry-over tips at home played a significant role in assisting the [injured person] to be

functional at a certain level. Of significance, the treatments had prevented [injured person] from falling and regressing physically.

Further, the IRO reviewer further noted that the 11 physical therapy treatments rendered in March 2021 were not overutilized in frequency and duration in accordance with medically accepted standards. The IRO reviewer noted:

[The injured person] utilizes a power wheelchair for household distances and requires assistance with all activities of daily living. The physical therapy interventions used on March 1, 3, 4, 8, 10, 12, 17, 19, 22, 24 and 26, 2021, including neuromuscular re-education, therapeutic exercise, and therapeutic activities, were utilized to address [injured person's] impaired balance, decreased strength, impaired posture, impaired gait, decreased range of motion, and chronic pain.

However, the IRO reviewer opined that the physical therapy treatments provided to the injured person during 13 dates of service in March and April 2021 were not medically necessary and were overutilized in frequency or duration based on medically accepted standards. The IRO reviewer explained:

The treatments rendered March 29, and 31, 2021 and April 5, 7, 9, 12, 14, 16, 19, 21, 23, 26, and 28, 2021 were no longer medically necessary based on the documentation reviewed. There was no documented progress of continuing improved function noted, as in the earlier dates of therapy. It is the responsibility of the PT to document assessments and responses to therapy accordingly per the American Physical Therapy Association.

Based on the above, the IRO reviewer recommended that the Director reverse, in part, the Respondent's May 20, 2021 determination that 11 physical therapy treatments rendered in March 2021, were not medically necessary. In addition, the IRO reviewer recommended that the Director uphold the Respondent's June 8, 2021 determination that the physical therapy treatments provided to the injured person in April 2021 were not medically necessary and were overutilized in accordance with medically accepted standards, as defined by R 500.61(i).

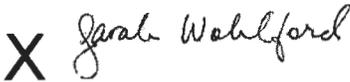
IV. ORDER

The Director reverses, in part, the Respondent's determination dated May 20, 2021, and orders the Respondent to reimburse Petitioner in the amount of \$3,302.00 for 11 physical therapy treatments provided March 2021, plus any interest as provided under MCL 500.3142 and R 500.65(6). The Respondent shall, within 7 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). In addition, the Director upholds the Respondent's determination dated June 8, 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

 X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford