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. 21-1109**

v

Auto-Owners Insurance
Respondent

Issued and entered
this 27th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 8, 2021, Strength Training and 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 Auto-Owners 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 June 11, 2021. The Petitioner now seeks reimbursement for the full amount billed for the dates of service at issue.

The Department accepted the request for an appeal on July 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 July 15, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents.

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 on May 10 and 18, 2021. The treatment is identified under the Current Procedural Terminology (CPT) code 97110 as therapeutic exercise. The Petitioner's supporting documentation included treatment notes, progress reports, and a treatment prescription that included the dates of service at issue with diagnoses of quadriplegia, C5-C7 incomplete, traumatic brain injury, and injury following motor vehicle collision.

With its appeal request, the Petitioner stated the physical therapy treatment is medically necessary to assist the injured person with transferring in and out of a wheelchair. The Petitioner provider further explanation in its appeal request stating:

> [The injured person] has an extensive medical history which has been well documented since [the injured person's] MVA. [The injured person] has a power wheelchair for primary method of mobility, however, is capable of transferring in and out of wheelchair by standing up with assistance and pivoting. It is imperative that [the injured person] receives skilled care to assist with weightbearing activities. If unable to perform weightbearing activities on a regular basis, [the injured person] is at greater risk of losing bone density and at greater risk of fractures.

In its determination, the Respondent denied payment for CPT code 97100, stating that the treatment is not medically necessary. The Respondent further noted:

> [T]he [Official Disability Guidelines]…[a]llow for fading of treatment frequency (from up to 3 visits per week to 1 or less) plus active self-directed home [physical therapy]." Treatment should be active, with formal re-assessment after a "6-visit clinical trial" to evaluate whether therapy has resulted in positive, negative, or no impact, prior to continuing or modifying treatment. This request is not medically necessary. The patient is receiving therapy services that could be performed at home.

In its July 22, 2021 reply, the Respondent further explained that the injured person is equipped with for home therapy:

> On October 2, 2020, and Occupational Therapy Assessment was performed by [a] licensed [occupational therapist] related to a home modification claim. [The licensed OT] noted that [the injured person] had durable medical equipment at home that included standing power wheelchairs and a Rifton Pacer gait training walker, a secondary/ back-up gate training walker and a rolling shower/commode chair. [The injured person] was determined to be able to ambulate 990 feet before requiring a break which was 90 feet more than a prior assessment.

III. ANALYSIS

<u>Director's Review</u>

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 rendered on May 10 and 18, 2021 were not medically necessary and were overutilized in frequency or duration in accordance with medically accepted standards as defined in R 500.61(i).

The IRO reviewer is a doctor of chiropractic medicine. 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 guidelines from the Official Disability Guidelines (ODG) and a peer-reviewed article for the practice of chronic complications of spinal cord injury and disease.

Based on medically accepted standards, the IRO reviewer noted that:

> The ODG Physical Therapy Guidelines allows for fading of treatment frequency (from up to 3 visits per week to 1 or less), plus active self-directed home PT. The treating provider noted that the 63-year-old [injured person] sustained significant spine and head injuries as a result of a motor vehicle accident that occurred on 03/05/2004. The treating provider's documented diagnoses are quadriplegia C5-7 incomplete and TBI.

The IRO reviewer opined that:

> Based on the records provided, the [injured person] underwent 75 visits of outpatient physical therapy as of 05/18/2021. Following an OT Home Assessment in October 2020, the [injured person's] home was equipped for active home therapy including durable medical equipment (DME). There is no indication physical therapy frequency being faded to a self-directed home therapy program. Therefore, utilizing the evidence-based ODG Physical Therapy Treatment Guidelines, medical necessity for the May 10, 2021 and May 18, 2021 treatment visits cannot be substantiated.

The IRO reviewer further noted that physical therapy treatment was overutilized in frequency or duration:

> Based on the documentation submitted for review, there is indication that the physical therapy rendered was over-utilized in frequency and/or duration pursuant to the generally accepted evidence-based treatment guidelines. As stated above, the [injured person] had attended 75 visits of outpatient physical therapy as of 05/18/2021 with no indication of being transitioning to a self-directed home therapy program. The physical therapy rendered on May 10, 2021, and May 18, 2021 exceed the guideline criteria pursuant to the referenced treatment guidelines

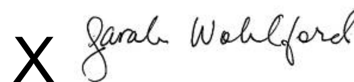
Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on May 10 and 18, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated June 11, 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