

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

In the matter of:

The Recovery Project, LLC
Petitioner

File No. 21-1111

v

Frankenmuth Mutual Insurance Company
Respondent

Issued and entered
this 1st day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 8, 2021, The Recovery Project, LLC (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 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 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 23, 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 30, 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 24, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments provided to the injured person on April 16, 21, 23, 28, and 30, 2021. On June 9, 2021, the Respondent issued an *Explanation of Review* (EOR) letter to the Petitioner, denying the treatments based on American College of Environmental Medicine (ACOEM) Practice Guidelines and Official Disability Guidelines (ODG). In its EOR, the Respondent stated that physical therapy treatments exceeded practice guideline recommendations.

With its appeal request, the Petitioner submitted a discharge summary from June 11, 2021 indicating that the injured person's diagnoses were pain in left foot, low back pain, other abnormalities of gait and mobility, other lack of coordination, unsteadiness on feet, muscle weakness (generalized), unspecified injury to L1 level of lumbar spinal cord, sequela, and conus medullaris syndrome. In a letter included in its appeal request, the Petitioner stated that the injured person's physician and physical therapist recommended visits 2 times per week to slow further deterioration of functional status.

In its reply, the Respondent reaffirmed its original determination that the physical therapy treatments were overutilized. Specifically, the Respondent noted that ODG guidelines recommend 48 visits over 18 weeks for physical therapy following surgery for fractures of the vertebral column. Further, the Respondent stated that the injured person had "made significant improvements" and there was no clear indication that he was unable to transition to a home exercise program.

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 dispute regarding overutilization and inappropriate treatment.

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 to the injured person on the date of service at issue were not medically necessary based on medically accepted standards.

The IRO reviewer is a licensed physical therapist. 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 Official Disability Guidelines (ODG) and American College of Occupational and Environment Medicine (ACOEM) Practice Guidelines for low back disorders for its recommendation.

The IRO reviewer explained that the injured person sustained a burst fracture at the level of L1 as the result of a motor vehicle accident in May 2018. Based on the submitted documentation, the injured person had a surgical fusion with rod placement from T11-L3. The IRO reviewer noted that the injured person's recovery was complicated by sacral pressure ulcers, and the onset of coccygeal osteomyelitis. As noted in the submitted documentation, the injured person began outpatient physical therapy in 2019, with a goal to maximize his potential towards functional independence. The injured person had completed 56 visits as of April 30, 2021.

The IRO reviewer opined that, based on submitted documentation, the injured person was independent with all activities of daily living, and only required nursing care in the morning for wound care. The IRO reviewer indicated that, based on submitted documentation, the injured person continued to make gains towards functional independence.

Further, the IRO reviewer explained that ODG physical therapy practice guidelines for a vertebral fracture and spinal cord injury are 48 treatments over 18 weeks as a standard. Specifically, the IRO reviewer stated:

The 5 PT sessions on the above dates were not medically necessary. The injured person had 68 treatment sessions as of the discharge summary 06/2021. The injured person and his caregiver should be well versed on a home program at this point. According to the notes, the injured person was independent with ADLs (activities of daily living) and community ambulation. Skilled PT (Physical Therapy) is not required in order to maintain skills or prevent further loss of function.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy provided to the injured person on April 16, 21, 23, 28, and 30, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director uphold the Respondent's determination dated June 9, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

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