

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. 21-1113

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 6th 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 Auto-Owners Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment 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 10, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on July 22, 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 22, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. Both parties were issued a written notice of extension on September 8, 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 September 10, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments provided to the injured person under procedure codes 97112 and 97140 on April 21, 2021, which are described as neuromuscular

reeducation and manual therapy techniques. On June 10, 2021, the Respondent issued a *Utilization Review Recommendation Non-Certification* letter to the Petitioner, denying payment on the basis that treatment was overutilized, and therefore not medically necessary. The Respondent's determination relied on Official Disability Guidelines (ODG) for its determination.

With its appeal request, the Petitioner submitted documentation that indicated that the injured person sustained a motor vehicle accident in January 2010, which resulted in an incomplete T3 spinal cord injury, mild traumatic brain injury, and a grade B on the ASIA Impairment Scale. The injured person's goals for physical therapy included increase shoulder flexion range of motion, reduced pain with functional activities, and wheelchair management. The Petitioner included a letter in its appeal request, which stated:

[The injured person] underwent a surgical procedure in 2016 that left her further debilitated and again experienced a significant setback after being diagnosed with and hospitalized for COVID in 2020. For the last 11 years, [the injured person] has been working and fighting to maintain the health and integrity of her skin, joints, muscles, and her spirit. [The injured person] is unable to speak, so she communicates with an assistive communication device. She is unable to eat normal foods, move her body around, take care of herself physically and must rely on others for participation in any meaningful occupations. The motor function in [the injured person]'s core and extremities is significantly impaired. She experiences high tone/spasticity/muscle tightness, which she relies on a baclofen pump, daily stretching and consistent neuromuscular electrical stimulation to manage. [The injured person] has been receiving skilled occupational therapy services consistently to provide her and her family her with support, improve her self-efficacy, and facilitate opportunities for her to practice using her body is a safe and effective way.

Further, the Petitioner argued that the Respondent's determination based on ODG "do not consider the need of skilled service to maintain the patient's condition or to prevent or slow further deterioration." The Petitioner stated that the treatments provided to the injured person are supported by American Occupational Therapy Association practice guidelines.

The Respondent did not provide the Department with a reply to the Petitioner's appeal or other documentation in support of its determination.

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 of 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 medically necessary, based on medically accepted standards.

The IRO reviewer is a licensed 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 the American Occupational Therapy Association (AOTA) Occupational Therapy Practice Guideline for traumatic brain injury (TBI) for its recommendation.

The IRO reviewer opined that the American Occupational Therapy Guidelines are an appropriate practice guideline for the physical therapy treatments provided to the injured person on the date of service at issue. Specifically, the IRO reviewer opined:

The American Occupational Therapy Guidelines are published by the American Occupational Therapy Association and are generally accepted treatment guidelines to assist occupational and physical therapy practitioners in providing evidence-based interventions.

The IRO reviewer explained that the injured person sustained a T3 spinal cord injury from a 2010 motor vehicle accident. The injured person’s diagnoses include: “muscle weakness (generalized); paraplegia, complete; diffuse TBI with LOC of unspecified duration, subs; neuromuscular dysfunction of bladder, unspecified; other lack of coordination; and other reduced mobility.”

Based on submitted documentation, the IRO reviewer indicated the injured person had functional limitations including gross motor strength, severe spasticity, and was limited in the ability to carry out activities of daily living (ADLs). Specifically, the IRO reviewer opined:

[T]reatment was reasonable and necessary to “maintain, prevent, and slow further deterioration” of the injured person’s condition. The treating provider documented measurable clinical goals and the functional gains as a result of the active rehabilitative therapy. Furthermore, the AOTA Treatment Guidelines support treatment to restore and maintain the injured person’s overall condition including improving range of motion, strength and ADL’s. Therefore, based on the totality of the clinical data and the generally accepted evidence-based guidelines, the physical therapy rendered on April 21, 2021 was reasonable and necessary for the injured person’s diagnosed conditions.

Further, the IRO reviewer opined that the physical therapy treatments were not overutilized in frequency or duration, based on medically accepted standards. In its report, the IRO reviewer stated:

The evidence-based treatment guidelines support restorative and maintenance care to maintain, prevent and slow further deterioration. The [Petitioner] documented the functional limitations including the injured person's deterioration in her ability to carry out ADL's. The [Petitioner] also documented measurable treatment goals and the treatment efficacy.

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 April 21, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses the Respondent's determination dated June 10, 2021.

The Petitioner is entitled to payment in the full amount billed and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). 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 order relates only to the treatment, products, services, or accommodations 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 treatments 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