STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Onward Therapy Services

Petitioner **File No. 21-1129**

v

Home-Owners Insurance Company
Respondent

Issued and entered
this 9th day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. Procedural Background

On July 19. 2021, Onward Therapy Services (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 Home-Owners Insurance Company (Respondent) that 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 in full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on July 23, 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 the Respondent received a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on August 12, 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 rendered on May 3, 5, and 7, 2021. The treatments provided are identified under Current Procedural Terminology (CPT) codes 97110 and 97140, which are described as therapeutic exercise and manual therapy.

With its appeal request, the Petitioner submitted medical documentation indicating the following diagnoses: traumatic brain injury, post-traumatic stress disorder, chronic low back pain due to L1, L2, and L3 transverse process fracture and L5 fracture, rotator cuff tear, and left knee pain due to torn posterior cruciate ligament. Additionally, the Petitioner submitted treatments notes for the dates of service at issue, and a letter from the injured person's referring physician supporting the medical necessity of physical therapy treatments. Based on the Petitioner's treatment notes, physical therapy was employed to address the following problems: decreased range of motion, decreased strength, increased pain, impaired balance, and impaired gait.

The Petitioner stated in its appeal request:

> Rehabilitative therapy is required for [injured person's] diagnosis and state of recovery to continue to facilitate [injured person's] potential improvement and response to therapy; maximum improvement is yet to be attained; and there is an expectation that anticipated improvement is still attainable. The skilled therapy provided cannot be safely and effectively carried out by the [injured person] personally, or with the assistance of no therapists, including unskilled caregivers. Without continued physical therapy, [injured person] is at risk of declining in functional ambulation, decline in overall strength and flexibility and increased pain.

In its determination, the Respondent stated that physical therapy treatments rendered on the dates of service at issue were not medically necessary. The Respondent referred to Official Disability Guidelines (ODG) to support its determination, and stated that:

> Extended care beyond 8 weeks may be considered on a case-by-case basis when manipulation has resulted in proven benefits including decreased pain, improved function and quality of life, and enhanced [return to ward]; One treatment as often as every other week until [maximum medical improvement] may be intermittently appropriate, depending on symptomatic limitations, particularly with re-injury, interrupted continuity of care, exacerbation, and major comorbidities.

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 that the injured person had completed 72 sessions of physical therapy treatment, and that treatment had "far exceed[ed] the recommended course." Additionally, the Respondent noted that medical records did not support that the injured person has "demonstrated an improved functional status with the continued physical therapy."

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 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 May 3, 5, and 7, 2021 were not medically necessary and overutilized in frequency or duration in accordance with medically accepted standards.

The IRO reviewer is a doctor of chiropractic medicine. 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 Official Disability Guidelines Physical/Occupational Therapy for shoulder and low back conditions.

The IRO reviewer opined that the physical therapy services provided to the injured person for the dates of service at issue were not medically necessary. The IRO reviewer explained that the ODG Physical Therapy Guidelines support 10 visits of physical therapy over 8 weeks for the injured person's diagnosed conditions, and that evidence-based guidelines allow for the fading of treatment frequency with a transition to self-directed home physical therapy. The IRO reviewer noted that the injured person had previously completed at least 72 visits of physical therapy, which included manual therapy.

The IRO reviewer explained that evidence-based treatment guidelines state that manual or manipulative therapy treatments can extend beyond 8 weeks on a case-by-case basis when "manipulation has resulted in proven benefits including decreased pain, and improved function." The IRO reviewer opined that the physical therapy treatments exceeded the guidelines criteria, and stated:

> In this case, there was no documentation of clinical data such as measured ADL's indicating that the claimant was objectively improving with previous treatment.

Further, the IRO reviewer opined that the physical therapy treatments were overutilized in frequency and/or duration. Based on documentation, the IRO reviewer stated that the injured person's completion of at least 72 visits of physical therapy exceeded evidence-based guidelines.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's

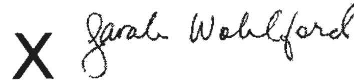
determination that the physical therapy treatments rendered on May 3, 5, and 7, 2021 were not medically necessary and was overutilized in frequency or duration in accordance with medically accepted standards, as defined by R 500.61(i).

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