

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. 21-1131

v

Auto-Owners Insurance
Respondent

Issued and entered
this 7th day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 20, 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 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 30, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date[s] of service at issue.

The Department accepted the request for an appeal on July 20, 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 August 10, 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 16, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for fitness therapy services rendered on June 3, 2021. The submitted documentation indicates that the injured person sustained an incomplete lesion at T2-6 resulting in paraplegia following a motor vehicle accident in 2009. With its appeal request, the Petitioner stated that the injured person has had significant improvement in his pain management, upper body strength, and core strength since starting “inclusive fitness training treatment.” The Petitioner notes that the therapy provided is medically necessary as the injured person is “still not able to complete his home exercise plan (HEP) without assistance and has not reached his ROM goals for his bilateral shoulder flexion.”

The Petitioner also included a treatment order dated April 14, 2021, for “inclusive fitness training with one year gym membership” for “2 [times per week for] 90 minutes” with a diagnosis of a spinal cord injury (SCI). In addition, clinical documentation for the date of service at issue noted that the injured person’s condition was unchanged “due to soreness and spasticity;” however, he was receptive to therapy.

In its determination, the Respondent denied payment stating that the services rendered on June 3, 2021 were not medically necessary based on the Official Disability Guidelines. In its reply, the Respondent reaffirmed its position that the services provided were not medically necessary. The Respondent further noted that:

With the lack of improved change in function and the extensive therapy received to date, the fitness training for [the injured person] is no longer needed for his care, recovery or rehabilitation under 500.3107(1)(a). Since we paid attendant care services while [the injured person] attended his fitness training, presumably his caregiver was in attendance and would have had ample opportunity to be trained to facilitate a home exercise program (maintenance program) as part of his daily care.

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, medical necessity was not supported for the fitness therapy services rendered on June 3, 2021, and the services were overutilized in frequency and duration based on medically accepted standards.

The IRO reviewer is board-certified in physical medical and rehabilitation. 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 from the American Board of Physical Medical and Rehabilitation (ABPMR) and clinical journal articles.

The IRO reviewer opined that the services provided to the injured person on June 3, 2021, were not medically necessary. The IRO reviewer noted that the injured person is chronically disabled, and wheelchair bound with an ability to perform basic upper extremity activities of daily living “at a new baseline function.” However, the IRO reviewer noted that there was limited evidence in the documentation to support any benefit for the injured person to engage in a high level of fitness training by a licensed professional. The IRO reviewer further noted:

Aside from [the injured person’s] kidney stone, urinary tract infection and spasticity, which appear to be chronic medical condition[s], there is no evidence that he has an acute functional decline. There is lack of evidence, based on chronicity of [the injured person’s] injury, to support ambulation is [sic] a realistic long-term goal as he is wheelchair bound. Also, there is no evidence that [the injured person] has had a recent hospitalization or clinic visit due to skin breakdown, pneumonia, falls, fractures, or worsening bone health to support medical necessity of fitness therapy service. Finally, there is no evidence that [the injured person’s] physician provider is monitoring his spasticity improvement with anti-spasm medication adjustments. Based on clinical guidelines, caregiver training and skilled home care should be attempted with a home exercise program (HEP), in [the injured person’s] clinical scenario, for maintenance level therapy and prevention of secondary complications.

In addition, the IRO reviewer opined that the services provided to the injured person on June 3, 2021, were overutilized in frequency and duration “due to a lack of physician intervention to address the frequent barrier of pain and/or spasticity.” The IRO reviewer explained:

Based on [the injured person’s] symptom and condition trend, it appears the fitness therapy services were too intense for him, and the spasticity was limiting functional progression and optimal therapy training.

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

In chronic spinal cord injury (SCI) patients, as in [the injured person’s] clinical scenario, data does not support clinical prediction rule for ambulation prognosis. It is recommended to use clinical judgement and individual factors in assessing ambulation goals for chronic disability from SCI. [The injured person’s] SCI is from

2009 and he has been wheelchair bound; however, the clinical notes indicate ambulation under long term goals. Also, shoulder pain and/or stiffness and spasticity are common symptoms of chronic SCI patients. Based on clinical guidelines, the importance of early onset education, caregiver training, and HEP in stretching and passive range of motion exercise can help alleviate many pains and/or stiffness exacerbations. Finally, primary care providers are encouraged to follow a health maintenance checklist for SCI patients which includes routine screening for shoulder pain using the Wheelchair User's Shoulder Pain Index and intervention should begin with pain reduction medications and gentle mobility exercises.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the fitness therapy services provided to the injured person on June 3, 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 upholds the Respondent's determination dated June 30, 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