

**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. 21-1133**

**v**

**Auto-Owners Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 9<sup>th</sup> 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 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 Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on July 14, 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 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 provided the Respondent with 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 September 7, 2021.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for fitness therapy treatments provided to the injured person under procedure code 97110 on June 10, 2021. On July 14, 2021, the Respondent issued the Petitioner an "Utilization Review Recommendation Non-Certification" letter denying the treatment based on standards identified by the Official Disability Guidelines (ODG) for fitness therapy. In its denial letter, the Respondent states that treatment should active, with a formal reassessment after six visits.

In 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 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). The Petitioner's argues that fitness therapy treatment is medically necessary, and states:

[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.

In its reply, the Respondent reaffirmed its position that the services provided were not medically necessary. The Respondent stated that there is no documentation of the fitness therapy treatments providing objective functional improvement, and no indication that a home exercise program could not address any remaining deficits. 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.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the fitness therapy treatments provided to the injured person on the date of service at issue was not medically necessary.

The IRO reviewer is a medical doctor board-certified in physical medicine and rehabilitation. 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 *Paralyzed Veterans of America (PVA) Consortium for Spinal Cord Medicine Clinical Practice Guidelines for Cardiometabolic Risk After Spinal Cord Injury: A Clinical Practice Guideline for Health Care Providers*, as well as evidence-based medical literature.

The IRO reviewer explained that the injured person was involved in a motor vehicle accident on October 7, 2009, with listed diagnoses of incomplete lesion at T2-T6 level of the thoracic spinal cord and chronic pain due to trauma. The IRO reviewer stated that the treatment notes for the date of service at issue indicated that the injured person's pain level was a 2 out of 10 on the pain scale with weighted equipment used for back row, latissimus pull down, shoulder external rotation at 15, 80, and 5 pounds, respectively, with range of motion exercises to the knees, hips, and shoulders. The IRO reviewer opined that based on the provided documentation, there was no significant changes noted in exercise weight increases or objective measurements of spasticity improvement since April 2021, in relation to the date of service at issue, and the injured person's pain levels remained at similar levels.

The IRO reviewer noted that SCI patients should participate in at least 150 minutes of physical activity a week, and fitness training can help with range of motion exercises or stretches for spasticity treatments in patients “with chronic pain, increased spasticity, and weakness from the incomplete and traumatic spinal cord injury at T3-T5 level.” However, the IRO reviewer opined that the treatment notes did not indicate any significant subjective improvement in pain levels range of motion objectives, or spasticity. The IRO reviewer stated:

[O]nce there was limited improvement beyond [the date of service], then continuation of the fitness training services was not considered to be medically necessary.

The IRO reviewer further noted that a home exercise plan or daily stretching could be completed with skilled attendant care. The IRO reviewer opined that with the SCI injury occurring over 12 years ago “there should have already been an established home exercise and stretching routine for this patient.”

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

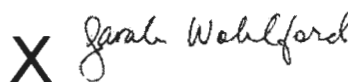
#### IV. ORDER

The Director upholds the Respondent's determination dated July 14, 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

  
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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford