

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. 21-1134

v

Auto-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 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 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 15, 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 the Respondent received a copy of the Petitioner's submitted documents. The Respondent filed a reply 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 bills by the Respondent to the Petitioner for physical therapy treatment rendered on June 14, 2021, under Current Procedural Terminology (CPT) code 97110, which describes therapeutic exercises for the development of strength. The Petitioner submitted supporting documentation demonstrating the following diagnoses: chronic pain due to trauma and incomplete lesion at T2-T6 following a motor vehicle accident in October 2009. The Petitioner also included a prescription for physical therapy along with daily treatments notes describing increased spasticity pain.

In its determination dated July 15, 2021, the Respondent determined that the injured person's function had not change much when compared to his function prior to physical therapy and physical therapy could be performed in a home-based setting.

The Petitioner's request for an appeal stated:

[The injured person's] diagnosis and state of recovery continue to facilitate [the 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 services provided cannot be safely and effectively carried out by the [injured person] personally, or with the assistance of non-therapist, including caregivers due to: lack of advanced collegiate education/skill set to provide exercise with recommended intensity, lack of collegiate education/skill set to protect and prevent any additional injuries, and lack of advanced collegiate education when progressing and assessing ambulation statues, regarding the needed bracing, assistive devices, and safety.

In its reply, the Respondent stated, "[w]ith the lack of improved change in function and the extensive therapy received to date, fitness training for [the injured person] is no longer needed for [the injured person's] care, recovery or rehabilitation under 500.3107(1)(a)." The Respondent further noted:

The utilization review was provided by Careworks and the UR is based on the expertise of a licensed medical doctor who cites to ODG by MCG guidelines. The medical records and the provider's response do not support any evidence that there has been any attempt at collaboration or even a discussion between [the Petitioner]and the skilled home care providers. There is no proof of any effort to discuss the viability of the care providers assisting with a home physical therapy plan under the guidance of a physical therapist.

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, the physical therapy treatment provided on June 14, 2021 was not medically necessary and was overutilized in accordance with medically accepted standards.

The IRO reviewer is a licensed physical therapist. 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 the American College of Occupational and Environmental Medicine (ACOEM) and the American Physical Therapy Association (APTA) practice guidelines.

The IRO reviewer opined that the physical therapy treatment provided to the injured person on June 14, 2021 was not medically necessary and was overutilized in frequency and duration in accordance with medically accepted standards. The IRO noted that:

Per the referenced ACOEM (American College of Occupational and Environment Medicine), an injured person may participate in therapy services in order to reinforce a home exercise program. Typically, an injured person will participate in up to 6 visits and additional sessions may be needed when there is incomplete resolution with ongoing functional improvement. However, the guidelines typically recommend up to 6 appointments.

The IRO reviewer further noted "[i]t is unclear how many specific therapy visits this [injured person] has completed; however, within submitted documentation it is noted [that the injured person] has been participating in therapy since April 2021." The IRO reviewer opined that according to the documentation, the injured person is paralyzed; therefore, it is unlikely the injured person will make significant improvement with additional therapy services. Additionally, the IRO reviewer opined that the physical therapy treatment was overutilized in frequency and duration as the injured person should be well-versed in a home exercise program.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatment provided to the injured person on June 14, 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 15, 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:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford