

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**Dynamic Physical Therapy**  
**Petitioner**

**File No. 21-1140**

**v**

**Frankenmuth Mutual Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 10<sup>th</sup> day of September 2021**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On July 21, 2021, Dynamic Physical Therapy (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 Frankenmuth Mutual 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 Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on July 27, 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 27, 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 13, 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 20, 2021.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for 11 physical therapy treatments rendered in April of 2021<sup>1</sup> under Current Procedural Terminology (CPT) codes 97110, 97116, 97140, 97010, and 97112, which are therapeutic exercise along with gait training, neuromuscular re-education, and manual therapy, respectively.

With its appeal request, the Petitioner submitted supporting documentation demonstrating the following diagnoses: generalized muscle weakness, dislocation of tarsal joint of the right foot, and unsteadiness on feet. In a treatment note provided by the Petitioner, the injured person presented on April 2, 2021, with left quad weakness, poor dynamic stability, hip weakness, and responded well to the treatment with reduced pain and improved gait. The Petitioner further states that the injured person complained of continued pain, swelling and fatigue, as well as functional limitations of self-care, shopping, food preparations, and other activities of daily living (ADLs).

In its five "Explanation of Review" documents issued May 3, 5, 11, 25, and 25, 2021, the Respondent denied the treatments on the basis that they were not medically necessary and that they extended beyond the usual range of utilization based on medically accepted standards.

In its reply, the Respondent denied the physical therapy treatments based on overutilization of services. The Respondent referenced the American College of Occupational Medicine (ACOEM) practice guidelines recommending that nonsurgical physical therapy visits are limited to "15 [visits] within 6 weeks, and limits visits with a surgical physical therapist to 12 [visits] within 6 weeks." Further, the Respondent argues that the injured person completed 19 physical therapy visits prior to April 1, 2021, and payment for additional visits was not medically necessary as it exceeded recommended treatment guidelines.

## 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, that the physical therapy treatments provided on the dates of

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<sup>1</sup> The dates of service at issue are April 2, 5, 7, 9, 14, 16, 19, 21, 26, 28, and 30, 2021.

service at issue were medically necessary and were not overutilized in accordance with medically accepted standards as defined by R 500.61(i).

The IRO reviewer is a medical doctor who is board-certified in physical medicine 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 American College of Occupational and Environmental Medicine (ACOEM).

The IRO reviewer opined that the submitted documentation indicates the injured person has continued functional limitations with ADLs and mobility. The IRO reviewer explained that the injured person has a history of “[osteoarthritis], right tarsal joint dislocation, muscle weakness with continued complaints of pain, swelling and fatigue.” Further, the IRO reviewer noted that treatment notes from April 2, 2021, indicated “[left quad weakness, weakness, and poor dynamic stability.” The IRO reviewer opined that the physical therapy treatments rendered on the dates of service at issue were medically necessary for the injured person. In support of its opinion, the IRO reviewer stated:

According to medical literature including ACOEM guidelines, physical therapy is recommended for the [injured person’s] condition. Additionally, immobilization and functional rehabilitation have shown to yield good clinical outcomes.

The IRO reviewer further opined that according to ACOEM guidelines, physical therapy treatments to treat the injured person’s functional limitations with 15 visits within 6 weeks is recommended. Further, the IRO reviewer opined that the physical therapy treatments were not considered to be overutilized in frequency or duration.

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 2, 5, 7, 9, 14, 16, 19, 21, 26, 28, and 30, 2021, were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


#### **IV. ORDER**

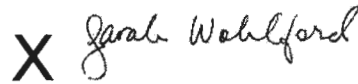
The Director reverses the Respondent’s determinations dated on May 3, 5, 11, 25, and 27, 2021.

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). The 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 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