

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, LLC
Petitioner

File No. 21-1179

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 1st day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 29, 2021, Onward Therapy Services, LLC (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 two written notices of the Respondent's determination under R 500.64(1) on July 20, 2021. 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 August 9, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on August 9, 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 30, 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 19, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for fitness therapy treatments rendered on June 28, 2021 and July 1, 2021. On July 20, 2021, the Respondent issued two letters of determination to the petitioner, denying the fitness therapy treatments on the basis that the services were overutilized and not medically necessary.

With its appeal request, the Petitioner provided clinical documentation indicating the injured person's diagnoses included other incomplete lesion at T2-T6 level of thoracic spinal cord and chronic pain due to trauma. In a letter included with its appeal request, the Petitioner stated that the injured had not met his long term goals of fitness therapy, which included ability to ambulate with no aids required, knowledge, safety, body mechanics and understanding of home exercise plan, and left and right shoulder flexion range of motion (ROM) to 180 degrees. Further, the Petitioner stated that:

[The injured person] has had significant improvement in his pain management, upper body strength and core strength since he started with [fitness therapy]. [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 initial determination and stated that the fitness therapy treatments were denied because "there has not been a documented improvement in function activity that would suffice to authorize the treatment as reasonable[y] necessary." Further, the Respondent stated:

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 dispute of overutilization and inappropriate treatment.

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 dates of service at issue were not medically necessary based on medically accepted standards.

The IRO reviewer is 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 Official Disability Guidelines (ODG) for neck and upper back physical medicine, and the Journal of Neurologic Physical Therapy practice guidelines for locomotor function following chronic stroke, incomplete spinal cord injury, and brain injury for its recommendation.

The IRO reviewer explained that ODG guidelines recommend 8 physical therapy visits over 10 weeks for spinal order injury, and to fade of treatment from 3 visits per week to 1 or less with active self-directed home physical therapy. Submitted progress notes indicate that the injured person had been receiving physical therapy treatments since April 12, 2021 and had completed 11 visits prior to the dates of service at issue. Additionally, the IRO reviewer noted that the injured person had improvement in their symptoms of pain, strength, and core stability.

The IRO reviewer opined that, based on submitted documentation, the injured person was not suggested to extend physical therapy treatments beyond the guideline recommendation. Specifically, the IRO opined:

There is no indication of an additional significant exacerbation to support additional sessions. As this is a chronic injury the injured person should be well versed in a home exercise program. There is no indication the injured person was unable to continue a home exercise program.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy treatments provided to the injured person on June 28, 2021 and July 1, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determinations dated July 20, 2021.

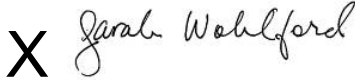
This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

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