

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. 21-1196

v

Auto Club Group Insurance Company
Respondent

Issued and entered
this 6th day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 2, 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 Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment 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 Respondent issued the Petitioner a bill denial on July 19, 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 16, 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 16, 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 September 3, 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 16, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on July 1, 2021. The Current Procedural Terminology (CPT) codes at issue include 97110 and 97530, with an accompanying GP modifier, which are described as therapeutic exercise and functional performance activities delivered under an outpatient physical therapy plan of care.

With its appeal request, the Petitioner submitted medical documentation for the date of service at issue, which indicated that the injured person suffered a traumatic brain injury (TBI) in relation to a motor vehicle accident with chronic pain in the low back, right knee, and hip. In its supporting documentation, the Petitioner argued that the injured person has not yet attained maximum improvement from therapy and requires skilled therapy services to improve her condition and to provide a safe and effective maintenance program.

In its supporting documentation, the Petitioner argued that the American College of Occupational and Environmental Medicine (ACOEM) and the Official Disability Guidelines (ODG), referenced by the Respondent in its denial, are inadequate standards for the injured person's diagnoses. The Petitioner stated that the diagnoses for which the injured person received therapy are not "common health disorders among workers." The Petitioner argued that "the guidelines do not consider the need of skilled service to maintain the [injured person's] condition or to prevent or slow further deterioration."

The Petitioner's request for an appeal stated:

[The injured person] has had significant improvement in sit to stand and stand to sit transfers as well as increasing strength to 3+/5 throughout right upper and lower extremities. [The injured person] is continuing to strengthen her bilateral lower extremities, core, and glutes to assist with improved functional safety and independence along with gait training and standing activities...Without continued physical therapy, [the injured person] is at risk of declining in functional ambulation, overall strength and flexibility, and increased pain.

In its reply, the Respondent reaffirmed its denial relating to the treatment at issue and referenced ACOEM and ODG guidelines for back pain and chronic pain in support of its denial. The Respondent noted that the injured person began physical therapy on July 21, 2020, and that she attended 56 sessions as of July 1, 2021.

More specifically, the Respondent stated:

There were no documented objective findings to show that [the injured person] had a positive response and functional improvement from the completed therapy sessions. Based on the records reviewed and in conjunction with guidelines, the July 1, 2021 physical therapy is not recommended. As such, denial is recommended.

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 involves a dispute regarding inappropriate treatment 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 on the date of service at issue and the treatments were overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is board-certified in physical medicine and rehabilitation. The IRO physician has knowledge in the care of individuals involved in motor vehicle accidents, including those with the injured person's conditions. 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 ACOEM and ODG guidelines, the American Board of Physical Medicine and Rehabilitation (ABPMR) guidelines, the American Academy of Orthopaedic Surgeons (AAOS) Management of Osteoarthritis of the Knee (Non-Arthroplasty) Evidence-Based Clinical Practice Guidelines, the American Physical Therapy Association practice standards, and current literature relevant to the injured person's diagnoses for its recommendation.

The IRO reviewer explained that ABPMR and AAOS both utilize the APTA and ODG guidelines "for guidance on treatment practice to make the best determination of care based on the injured person's individual needs." The IRO reviewer stated that, based on the submitted documentation, the injured person was involved in a motor vehicle accident in August 2013, and now suffers from low back, right knee, and hip pain.

The IRO reviewer opined:

[The injured person] has had over 30 physical therapy treatments completed since October 20, 2020. According to the ACOEM and ODG, for knee and joint pain, 2 to 3 sessions per week for 1 to 4 weeks are recommended. For chronic spine pain, 4 to 6 appointments are recommended to initiate and begin to reinforce and exercise [program]. Once these sessions are met, best practice is for the injured person to transition to a home exercise program (HEP).

The IRO reviewer stated that the physical therapy treatments provided on the date of service at issue were overutilized in frequency or duration based on medically accepted standards. Further, the IRO

reviewer stated that “it is expected for the injured person to begin a HEP to continue to make functional gains.”

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 July 1, 2021 were not medically necessary and were overutilized in frequency or duration in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determination dated July 19, 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