

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. 21-1207

v

Auto-Owners Insurance
Respondent

Issued and entered
this 23rd day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 3, 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 (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 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 28, 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 treatment rendered on June 17, 2021 under Current Procedural Terminology (CPT) code 97110, which is described as therapeutic exercise to develop strength. With its appeal request, the Petitioner submitted documentation that indicates that the injured person was in a motor vehicle accident in October 2009 resulting in loss of consciousness and a T3-T5 fracture, leaving the injured person paralyzed. The Petitioner also submitted with its appeal request, a prescription for fitness training, daily treatment notes, and a letter of appeal.

In support of the necessity of the treatment rendered, the Petitioner noted:

[The injured person] has had significant improvement in his pain management, upper body strength and core strength since he started [fitness therapy treatments]. He is still not able to complete his home exercise plan (HEP) without assistance and has not reached his [range of motion] goals for his bilateral shoulder flexion.

In addition, the Petitioner's request for an appeal stated:

[The injured person] received inclusive fitness training which consisted of therapeutic procedure. [The injured person's] diagnosis and state of recovery to continue to facilitate his 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-therapists, including unskilled caregivers...

In its determination, the Respondent stated that the fitness therapy treatment was not medically necessary and "could be provided through a supervised home exercise program." As a basis for denial, the Respondent stated that its utilization review is consistent with Official Disability Guidelines (ODG). In its reply, the Respondent explained that the injured person was confined to a wheelchair since his motor vehicle accident and receives 24-hour skilled attendant care services.

In determining medical necessity, the Respondent explained:

The medical records ... do not support any evidence that there had 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 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 treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing physician board-certified in physical medicine and rehabilitation who is familiar with the medical management of patients with the injured person's condition. 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 evidence-based scientific exercise guidelines for adults with spinal cord injury.

Based on the guideline relied on by the IRO reviewer:

[A]dults with spinal cord injury should engage in at least 20 minutes of moderate to vigorous intensity aerobic exercise two times per week and three sets of strength exercises for each major functioning muscle group at a moderate to vigorous intensity two times per week ... [and] for cardiometabolic health benefits, adults with a spinal cord injury are suggested to engage in at least 30 minutes of moderate to vigorous intensity aerobic exercise three times per week.

The IRO reviewer opined "that for the injured person's diagnosis, there is no medically accepted practice guideline to recommend this type of fitness therapy." The IRO reviewer also indicated that there is "no quality evidence that supports traditional outpatient physical therapy multiple times a week is superior to home based physical therapy or home exercise programs with care givers using assistive devices in chronic stable spinal cord injuries."

The IRO reviewer further explained that "the goal of therapy intervention ... is to maintain the injured person's current level of function and prevent long term complications of his chronic spinal cord injury." The IRO reviewer indicated that the exercise recommendation "from the 2018 international guidelines can be met in the home setting with caregiver assistance as the guidelines do not warrant an intensive outpatient therapy intervention for the injured person at this time."

The IRO reviewer noted that there was no documentation of a medical treatment addressing the injured person's pain or spasticity. In addition, the IRO reviewer indicated that the injured person has the medical equipment and 24-hour assistant care at home necessary to maintain his baseline mobility with his wheelchair. The reviewer noted also that there is no documentation of a change in the injured person's living circumstances.

The IRO reviewer explained that the submitted documentation included "no specific protocol or modality used such as activity-based therapy, robotic training, or functional electrical stimulation that would justify the duration and the frequency of the treatment proposed."

The IRO reviewer further opined:

[B]ased on the medically accepted standard of care model, the fitness therapy administered on 6/17/21 was not life sustaining or medically necessary to maintain the injured person's baseline function ... the documentation provided for review does not show any objective meaningful improvement in the function of the injured person.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the fitness therapy treatment provided to the injured person on June 17, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

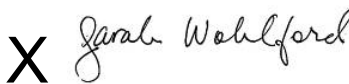
IV. ORDER

The Director uphold 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



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford