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. 21-1250**

v

Auto Club Group Insurance Company
Respondent

Issued and entered
this 7th day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 10, 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 23, 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 19, 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 19, 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 9, 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 10, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatment rendered on June 29, 2021 under Current Procedural Terminology (CPT) code 97110, with an accompanying GP modifier, described as therapeutic exercise. The Respondent's determination referenced guidelines of the American College of Occupational and Environmental Medicine (ACOEM) and the Official Disability Guidelines (ODG). The Respondent's determination indicated that the quantity of therapy received from October 20, 2020, including the date of service at issue in this appeal, exceed the recommended guidelines for the injured person's conditions.

With its appeal request, the Petitioner submitted medical documentation for the date of service at issue which indicated a diagnosis of right knee pain and complaints of fatigue and poor sleep. The treatment note indicated that the injured person fell "asleep during [a] session." The Petitioner's care plan for the injured person included strengthening exercises, gait training, and standing activities.

The Petitioner's request for an appeal stated:

> [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 continue physical therapy, [the injured person] is at risk of declining in functional ambulation, declining in overall strength and flexibility and increased pain. [The Petitioner] provided reasonable and necessary skilled physical therapy services to [the injured person] in accordance with the American Physical Therapy Association practice guidelines.

In its reply, the Respondent reaffirmed its position and cited ACOEM and ODG guidelines relating to low back pain and chronic pain. The Respondent noted that the injured person attended 55 therapy sessions prior to the date of service at issue and "reported minimal discomfort in the right hip." The Respondent stated that there were "no documented objective findings" to support functional improvement from the completed therapy sessions including the date of service at issue.

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 board-certified in physical medicine and rehabilitation with additional certification in electrodiagnostic medicine and acupuncture. 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 ODG guidelines and medical literature relating to the injured person's conditions for its recommendation.

The IRO reviewer opined that the physical therapy treatment for the date of service at issue was not medically necessary as there was "minimal pain on June 29, 2021" and there was "no documentation of significant improvement in pain levels, function, strength, range of motion, or quality of life" during previous therapy treatments. The IRO reviewer explained that ODG guidelines "suggest demonstrated evidence of functional improvement to justify additional visits, which was not satisfied in this case."

The IRO reviewer further opined:

> Physical therapy on [the date of service at issue] was overutilized in frequency in accordance with medically accepted standards as defined by R 500.61(i). On [the date of service at issue], the physical therapy note stated that the [injured person] had "minimal discomfort" in her right hip. There was no documentation of pain levels in the right knee…Physical therapy on [the date of service at issue] is considered overutilized in frequency as there is minimal pain…and no documentation of significant improvement in pain levels…The medical standard of care does not support physical therapy on [the date of service at issue].

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 29, 2021 was not medically necessary and was 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 23, 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:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford