

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

In the matter of:

HQ, Incorporated
Petitioner

File No. 21-1322

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 23, 2021, HQ, Incorporated (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, 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 Respondent issued the Petitioner a bill denial on July 30, 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 26, 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 26, 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 18, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on ten dates of service¹ under Current Procedural Terminology (CPT) codes 97112, 97110, 97530, 97140, and 97010 which are described as therapeutic procedures, neuromuscular reeducation, therapeutic exercise, manual therapy techniques, therapeutic activities to improve functional performance, and hot cold packs.

With its appeal request, the Petitioner submitted documentation demonstrating the injured person underwent a left total hip arthroplasty (THA) and presented to therapy with severe weakness, decreased mobility, and lack of functional endurance. The Petitioner also submitted with its appeal request a prescription for physical therapy up to 12 times over a 6-week period, two care plans from May and June 2021, and treatment notes.

The Petitioner's request for an appeal stated:

[The injured person] continues to lack an adequate ambulatory pattern secondary to demonstrating an [lower left extremity (LLE)] Trendelenburg gait, shortened LLE step length, and still requiring the use of a standard cane for assistance. Balance and gait training have been a major focus of the current treatment plan since the beginning of June. Activities such as retro gait, lateral stepping, stair climbing tasks, Airex balance pad tasks, and treadmill gait training have been utilized to promote gait and balance independence. As a result, she has stated improvements in tolerance to functional tasks in the home setting such as household tasks (vacuuming/gardening) and the ability/confidence to ambulate on uneven surfaces. The patient suffers from severe anxiety due to the traumatizing [motor vehicle accident] she was involved in and this level of anxiety is what prevents her from achieving progress at a much more rapid rate. At this time, the patient will continue to benefit from further therapeutic intervention to address the remaining balance and gait deficits.

In its explanation of review, the Respondent determined that the Petitioner overutilized services and the treatments rendered were not medically necessary. As a basis for its denial, the Respondent stated its utilization review was complete and consistent with the Official Disability Guidelines (ODG). In its reply, the Respondent reaffirmed its determination and noted ODG guidelines recommend "24 therapy visits over 10 weeks" for "status post a hip arthroplasty" and "nine to 24 therapy visits" for abnormality of gait.

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

¹ June 12, 15, 16, 21, 22, and 26, 2021, and July 2, 6, 14, and 16, 2021.

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 dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a 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 the guidelines issued by the American Academy of Orthopaedic Surgeons (AAOS) for its recommendation.

The IRO reviewer opined that the physical therapy treatments provided to the injured person on June 12, 15, 16, 21, 22, and 26, 2021 and July 2, 6, 14, and 16, 2021 were not medically necessary and overutilized in accordance to medically accepted standards.

The IRO reviewer explained:

According to the hip replacement exercise guidelines by the American Academy of Orthopaedic Surgeons (AAOS), early postoperative exercise improves circulation, prevents blood clots, and reduces stiffness. [The injured person], underwent general therapy sessions rather than a tailored program that would have achieved higher gains. An individualized post total hip arthroplasty (THA) rehabilitation protocol should be considered as standard of care. A patient tailored post-THA physical therapy (PT) program which focuses on progressive rehabilitation, patient goals and daily recreational activities have a positive effect on outcomes.

The IRO reviewer further explained:

There were no documented post-surgical complications to support extended sessions of physical therapy. There was a gap of approximately a month between the surgery and when physical therapy services began. This gap could have delayed recovery and led to a longer time frame of functional recovery as early mobilization post-THA leads to improved functionality, improved clinical outcomes, reduced healthcare costs, and fewer demands on nursing. Additionally, the combination of psychological and physical factors makes treating post-operative pain a bigger challenge. [The injured person's] anxiety and fear of falling appear to have greatly limited the potential for quicker recovery. Routine psychological interventions are not included in general rehabilitation principles.

Additionally, the IRO reviewer opined:

Extending outpatient [physical therapy] sessions would have been justifiable if she failed a self-directed home therapy program due to repeated falls, poor safety, or decline in function. None of which were documented in [injured person's] clinical scenario.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy provided to the injured person on June 12, 15, 16, 21, 22, and 26, 2021 and July 2, 6, 14, and 16, 2021 were not medically necessary and overutilized in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated July 30, 2021.

This order relates only to the treatment, products, services, or accommodations 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 treatments 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