

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

In the matter of:

The Recovery Project
Petitioner

v

File No. 21-1768

Auto Club Insurance Association
Respondent

Issued and entered
this 12th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 22, 2021, The Recovery Project (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 Insurance Association (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 arises under R 500.64(3), which allows a provider to appeal to the Department from the denial of a bill. The Respondent issued a bill denial to the Petitioner on August 31, 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 December 1, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 1, 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 December 20, 2021. The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise. The IRO submitted its report and recommendation to the Department on December 27, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for six sessions of physical therapy provided to an individual injured in an automobile accident in 2010. Petitioner's physical therapy sessions were provided on July 12, 19, and 26 and August 9, 16, and 23, 2021.

With its appeal request, the Petitioner submitted the records of the therapy sessions. In the appeal, the Petitioner wrote that the injured person has continued to have pelvic instability after several unsuccessful attempts to resolve the problem and there are no additional surgical interventions available. The injured person is now being treated for a frozen shoulder due to undetected fracture of his scapulae and the original sternum fracture. The Petitioner concluded:

The present plan of care in PT consists of muscle energy, myofascial release and exercise to address and manage his chronic pain. Due to the frequency of his malalignment of his pelvis the family/caregiver does not have the education to successfully re-align his pelvis....Due to walking and driving causing a pelvic unslip, skilled PT is necessary to manual realign his pelvis.

In its reply, the Respondent stated that American College of Occupational and Environmental Medicine (ACOEM) and Official Disability Guidelines (ODG) standards recommend up to 24 visits over 16 weeks to treat the injured person's condition. Respondent states that the medical records do not support the Petitioner's request because "50-300 sessions of therapy have been provided." The Respondent argues that additional physical therapy well exceeds the ACOEM and ODG guideline recommendations, and ample opportunity has been given to establish an independent, self-directed home exercise program.

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 overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded, based on the submitted documentation, that the physical therapy treatments provided to the injured person on the dates in question were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i).

The IRO reviewer is a physician in active practice who is board-certified in physical medicine and rehabilitation with additional certification in electrodiagnostic medicine and acupuncture. The IRO reviewer wrote:

[B]enefits of formal rehabilitation in the long term in this clinical setting have been and remain unclear particularly with respect to promoting overall function....
[F]ormal rehabilitation on a prolonged basis is not recognized in any generally accepted practice guideline, evidence-based practice guidelines, or other guidelines developed by the federal government or national or professional

medical societies, boards or associations as appropriate management with respect to TBI....[I]n this case, the injured person sustained a TBI and multiple musculoskeletal injuries due to a motor vehicle accident in 2002....[T]he injured person had chronic cognitive and physical impairments [and] impaired memory and decreased insight....[T]he injured person has been living in an assisted living facility with 24 hour per day assistance....[He] uses a wheelchair for functional mobility and requires assistance for transfers.... [T]he most appropriate guidelines for the physical therapy treatments in question are the ACOEM guidelines....[T]he injured person underwent extensive physical therapy from 2019 to 2021....[and] continued to have functional deficits without indication of progress....[A]lthough the injured person had significant persistent functional deficits, the therapy under review was not beneficial or medically necessary....[T]here is no clinical guideline support for the therapy services under review in this setting.

The IRO reviewer recommended that the Director uphold the Respondent's decision that the physical therapy provided on July 12, 19, and 26 and August 9, 16, and 23, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent's determination dated August 31, 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
Special Deputy Director
Signed by: Sarah Wohlford