

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

In the matter of:

Hesselberg Chiropractic
Petitioner

File No. 21-1033

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 24th day of June 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 6, 2021, Hesselberg Chiropractic (Petitioner) filed with the Director of the Department of Insurance and Financial Services (Department) a request for appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for appeal concerns a bill denied by Citizens Insurance Company of the Midwest (Respondent) for the Petitioner's chiropractic treatments rendered to the injured person on April 13, 2021.

The Department accepted the request for appeal on May 6, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on May 6, 2021, and the Respondent received a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on June 3, 2021.

The Department assigned an independent review organization (IRO) to review the issues in this appeal and provide a report and recommendation to the Department. The IRO submitted its report to the Department on June 8, 2021.

The Petitioner's appeal is made under R 500.65, which allows a provider to appeal to the Department from a determination made by an insurer. The Petitioner seeks payment in the full amount billed to the Respondent.

II. FACTUAL BACKGROUND

This appeal concerns the denial of a bill by the Respondent for chiropractic services rendered on April 13, 2021. The Respondent issued a determination to the Petitioner dated May 3, 2021. The Petitioner responded to the Respondent's determination in a letter dated May 5, 2021, which restated the Petitioner's position that the services provided on April 13, 2021 were medically necessary. The Respondent did not request a written explanation from the Petitioner regarding the medical necessity or indication for the treatment rendered to the injured person relevant to this appeal.

With its appeal request, the Petitioner submitted supporting documentation demonstrating the following diagnoses for the dates of service at issue: segmental and somatic dysfunctions of the lumbar, thoracic, cervical, sacral, and pelvic regions; low back pain; thoracic spine pain; cervicalgia; and disorder of ligament, unspecified site. The treatment included spinal manipulation, mechanical traction, and therapeutic exercises. The CPT codes billed were 98942, 97012, and 97110, respectively.

In its determination issued May 3, 2021, the Respondent denied payment for CPT codes 98942, 97012, and 97110. In its June 3, 2021 reply to the Petitioner's appeal, the Respondent maintained its position that the services provided on April 13, 2021, were not medically necessary.

Petitioner's Argument:

In its appeal, the Petitioner argues that the care provided to the injured person was medically necessary for treatment of low back pain, upper back pain, and cervical pain.

Respondent's Argument:

In its reply to the appeal, the Respondent explained that it denied the billed services as not medically necessary after reviewing the medical documentation provided by Petitioner.

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 is a matter of medical necessity and overutilization of services.

In support of its position, the Petitioner argues that the injured person had slowly been improving since treatment began December 28, 2020. In the medical record, the Petitioner noted that the injured

person's pain level had decreased from 6/10 to 4/10 on the pain scale and that the injured person was expected to reach maximum medical improvement by the end of the treatment plan.

The Respondent's May 3, 2021 determination stated that the Respondent would not reimburse the Petitioner because the "submitted documentation does not substantiate the chiropractic treatments ... as generally accepted medical standards." The Respondent's determination referenced the following standard of care in support of its conclusion:

Patients with low back or neck pain resulting from a motor vehicle accident should show statistically significant improvements in pain level, function and medication use. (Schofferman J., Wasserman S.). The current evidence suggests that exercise alone or in combination with education is effective for preventing low back pain. (Daniel Steffens, PhD 1,2; Chris G. Maher, PhD1; Leani S. M. Pereira, PhD2; et al.)

In its June 3, 2021 reply to the Petitioner's appeal, the Respondent restated its position that the submitted documentation did not substantiate the treatment rendered as in accordance with generally accepted medical standards.

The Director assigned an IRO to review the case file. In its June 8, 2021 report, the IRO reviewer recommended that the Department uphold the insurer's determination. The IRO reviewer concluded that the treatment provided to the injured person on April 13, 2021 was not medically necessary, and that the documentation in the file was not sufficient to determine whether the care had been overutilized in frequency or duration compared with medically accepted standards.

The IRO reviewer is board-certified in chiropractic medicine and has been in active clinical practice for 26 years. The IRO reviewer referenced R 500.61(i), in its report, 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, boards, and associations. The IRO reviewer relied on peer-reviewed journal articles and The Council on Chiropractic Guidelines and Practice Parameters.

In its report, the IRO reviewer noted the lack of adequate documentation to support the treatment provided on the date of service at issue. In particular, "there is no documentation of an initial examination, no report of a focused re-evaluation performed after an initial projected course of treatment had been concluded, and no reported significant improvement." The IRO reviewer further explained:

Proper documentation is mandatory in determining the condition, diagnosis, prognosis and continued care of a patient. A focused and detailed medical history and physical examination are necessary to assess the patient's medical condition and address specific complaints. There was no initial detailed patient history submitted, and no documented re-evaluation. This would be considered necessary as it is the

foundation of the clinical database for each patient. There are no quantitative examination findings, and no reported measurable functional deficits or improvement.

The IRO reviewer further explained:

The submitted documentation does not provide the clinical rationale for appropriate diagnosis, subsequent treatment planning and establishing medical necessity. There is no documentation of an initial examination when treatment reportedly began on 12/28/21. Following generally accepted medical or scientific practice parameters, the evidence-based trial of treatment supports a typical initial therapeutic trial of chiropractic care consists of 6-12 visits over 2-4 weeks, with the doctor monitoring the patient's progress with each visit to ensure that acceptable clinical gains are realized.

The Petitioner's supporting documentation stated that treatment began December 28, 2020 and that the injured person had slowly been improving since the start of care. However, the IRO reviewer opined that there was no documentation of an initial examination, no report of a focused re-evaluation performed after an initial projected course of treatment had been concluded, and no reported significant improvement.

Specifically, the IRO reviewer explained:

There is no indication, based on the records provided, how many sessions of chiropractic treatment rendered on 4/8/2021 falls outside the recommended treatment duration of 6-8 weeks. Without documentation to support complicating factors and/or comorbidities, treatment beyond the recommended treatment frequency and duration protocols cannot be supported. Additionally, elective/maintenance care is not supported as medically necessary.

With regard to overutilization, the IRO reviewer again noted that the documentation was insufficient, and that "without documented significant, sustained improvement from the treatment received to date, the chiropractic treatments appear to be overutilized in frequency or duration compared with medically accepted standards."

The IRO reviewer concluded that the chiropractic treatments provided to the injured person on April 13, 2021 were not medically necessary, were not in accordance with medically accepted standards, as defined by R 500.61(i), and were overutilized in duration compared with such standards. Accordingly, the Director upholds the Respondent's determination dated May 3, 2021.

IV. ORDER

The Director upholds the Respondent's determination dated May 3, 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

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford