

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. 21-1038

v

**Citizens Insurance Company of the Midwest
Respondent**

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

ORDER

I. PROCEDURAL BACKGROUND

On May 15, 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 appeal concerns a bill denied by Citizens Insurance Company of the Midwest (Respondent) for fitness treatments rendered by the Petitioner.

The Department accepted the request for appeal on May 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 May 19, 2021 and the Respondent received a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on May 27, 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 14, 2021.

The Petitioner's appeal is made under R 500.65, which allows a provider to appeal to the Department from the denial of a provider's bill. Accordingly, the denial constitutes a determination from which a provider may file an appeal to the Department. The Petitioner seeks payment in the full amount billed for the date of service at issue.

II. FACTUAL BACKGROUND

The Petitioner appeals the denial of payment for therapeutic exercises (fitness therapy) rendered on April 7, 2021 under current procedural terminology (CPT) code 97110. On May 1, 2021, the Respondent issued

a determination letter denying payment for the date of service at issue on the basis that the treatment was not medically necessary. The Respondent did not request a written explanation from the Petitioner regarding the medical necessity for the treatment at issue.

Petitioner's Argument:

In its appeal request, the Petitioner argues that the fitness therapy provided to the injured person under procedure code 97110 was medically necessary for the treatment of the injured person's spinal cord injury with tetraplegia status post motor vehicle crash with an onset of July 4, 2009. In addition, the Petitioner notes that the Respondent's determination contained a factual error when it stated that the treatment denied was for "outpatient PT [physical therapy]," when the treatment provided under procedure code 97110 was fitness therapy.

Respondent's Argument:

In its reply, the Respondent reaffirmed its position that procedure code 97110 was properly denied based on review of medical documentation. Based on its review, the Respondent argues that the treatment was not medically necessary for outpatient physical therapy. The Respondent reasoned that the proper standard of care was a maintenance program conducted by attendant care personnel for spinal cord injuries.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that a 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 issues of medical necessity.

In support of its argument, the Petitioner submitted supporting documentation, including treatment notes for treatment rendered on April 7, 2021, a prescription for fitness therapy evaluation and treatment written two days prior to treatment, and a letter in support of its position. The Petitioner's treatment notes stated that the injured person was diagnosed with quadriplegia, unspecified; quadriplegia, C1-C4 incomplete; quadriplegia C5-C7 incomplete; chronic pain due to trauma. The injured person presented without pain complaints and reported being without the use of pain medication. Regarding activities of daily living, the injured person needed assistance for "bowel movements, bathing, getting dressed, etc."

In addition, the treatment note documented the injured person was unable to bath, get dressed, or have bowel movements independently. Due to the injured person's condition, he was unable to stand or walk, unable to lift 20 pounds from floor to overhead; unable to lift over 25 pounds from floor to waist; had limited core strength; and difficulty keeping balance when performing tasks or lifting, reaching, bending. The Petitioner noted that the injured person was able to perform exercises for fitness therapy, independently but could only

perform some of the exercises safely. The Petitioner noted that the injured person did not know how to properly adapt to make the fitness therapy exercises more or less challenging.

In an appeal letter included in its appeal request, the Petitioner noted that outpatient physical therapy services were not provided to the injured person but instead the Petitioner provided fitness therapy sessions and have been treating the injured person since March of 2016. The Petitioner described fitness therapy as a step down from physical therapy but a step up from personal training. In its reply, the Respondent reaffirmed its denial stating "Utilization Review Complete: Denied per review of medical documentation. Treatment is not medically necessary."

The Director assigned an IRO to review the case file. The IRO reviewer is a physician who is board-certified in physical medicine and rehabilitation. In its June 14, 2021 report, the IRO reviewer opined that the documentation submitted failed to establish medical necessity for the fitness therapy treatment rendered on April 7, 2021, in accordance with medically accepted standards as defined by R 500.61(i).

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 peer-reviewed journal articles supporting current evidence-based practice guidelines, including "Evidence-based scientific exercise guidelines for adults with spinal cord injury: An update and new guideline."

The IRO reviewer concluded that the fitness therapy treatment provided on April 7, 2021 was not medically necessary in accordance with medically accepted guidelines. The IRO reviewer stated:

Although Physical Exercise Activity is recommended for persons with spinal cord injury, & additional guidance may be required for these persons by healthcare providers, there is not evidence in the literature that fitness therapy is medically necessary for this claimant [injured person], more than 10 years after onset of his spinal cord injury (7/4/2009).

Specifically, the IRO reviewer noted the following:

[I]t is noted that "Supports may be needed to help people complete some or all exercise sessions at home (e.g., information on how to exercise at home, where to acquire home-based exercise equipment). This implication may be particularly applicable to adults with tetraplegia... Likewise, supports are needed to sustain adherence to the guidelines; for instance, through ongoing physical activity counseling whereby informational and behavioral strategies are provided to support SCI consumers in their long-term efforts to be active.

The IRO reviewer also noted concerns with the limited documentation provided.

The Note documents that "Fitness Training" for 60 minutes was provided per CPT code 97110 without specific details regarding the services provided. Furthermore, specific medical information regarding the claimant's spinal cord injury (ASIA Classification, other medical information, past treatment including past Physical Therapy Treatment) was not provided.

Further, the IRO reviewer opined that the medical documentation provided did not substantiate the use of procedure code 97110. The IRO reviewer explained:

This reviewer is unable to establish procedure code 97110 as the appropriate code to bill for the treatment provided on April 7, 2021. The procedure code refers to "Therapeutic Exercise" and as noted previously... documents that "Fitness Training" for 60 minutes was provided per CPT code 97110 without specific details regarding the services provided. A detailed list of each modalities performed would be required to establish CPT code 97110 as an appropriate choice for the services rendered.

The IRO reviewer concluded that the fitness therapy treatment provided to the injured person on April 7, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i). Accordingly, the Director upholds the Respondent's May 1, 2021 determination.

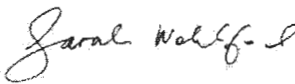
IV. ORDER

The Director upholds the Respondent's determination dated May 1, 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
Special Deputy Director
Signed by: Sarah Wohlford