

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

In the matter of:

NeuroCare Home Health
Petitioner

File No. 21-1004

v

State Farm Mutual Automobile Insurance Company
Respondent

Issued and entered
this 9th day of March 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On January 20, 2021, NeuroCare Home Health (Petitioner), filed with the Director of 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 concerns a reduction in the hourly rate paid by State Farm Mutual Automobile Insurance Company (Respondent) for home health care services.

The Department accepted the request on January 20, 2021. Pursuant to R 500.65, the Department notified Respondent and the injured person of Petitioner's request for an appeal on January 21, 2021. Additional information necessary to review the appeal was requested from Petitioner by the Department on January 21, 2021 and was received on January 22, 2021. Respondent filed a reply to Petitioner's appeal on February 4, 2021.

Petitioner's appeal is made under R 500.64(3), 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 reimbursement in the amount of \$4,762.50, which is the difference in payments for the dates of service at issue.

II. FACTUAL BACKGROUND

Since June 25, 2018, Petitioner has provided high-tech home health care services to the injured person under the billing code S9122. Until June 28, 2020, Respondent paid Petitioner's bills for these

services at the rate of \$35.00 per hour. Beginning on June 28, 2020, Respondent reduced reimbursement for these services to \$25.00 per hour. The dates of service at issue in this appeal are July 19, 2020 through September 12, 2020.

On October 30, 2020, Petitioner sent a letter to Respondent requesting an explanation for the reduction in payment. Petitioner's letter included a summary of the services that were provided, as well as examples of rates of payment for various levels of home health care services from four other providers.

On November 11, 2020, Respondent sent an Explanation of Review (EOR) for the dates of service at issue. The EOR showed a reduction in payment for each date of service with the reason code "paid as submitted." No further documentation was provided by Respondent to Petitioner.

Petitioner's Argument

Petitioner's documentation included a physician's order for "high tech home health aide care" and seven pages of client log sheets for the dates of service at issue. Petitioner asserted that a billing rate of \$35.00 was reasonable and customary for the high-tech home health care services provided.

Respondent's Argument

In its reply, Respondent stated that it adjusted the payment rate based on a market survey.¹

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 or ordered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Insurance Code, MCL 500.3101 through MCL 500.3179. This appeal does not involve issues of overutilization; instead, the parties dispute the cost of the care provided by the Petitioner.

In support of its appeal, Petitioner provided a copy of a physician's order for 12 months of high-tech home health services for the injured person. The physician's order was dated May 1, 2020 and prescribed 24-hour care to assist with bathing/grooming, transfers, and bladder/bowel assistance. The home health aide's treatment and care notes, as documented in the client log sheets, described assistance with intravenous care and bowel care. The Petitioner also included rate information from four other home care

¹ Respondent also objected to the Petitioner's appeal on the grounds that the dates of service at issue preceded the effective date of R 500.61 through R 500.69. Although the administrative rules became effective on December 18, 2020, the statute that establishes the provider's right to a determination became effective for dates of service after July 1, 2020. See MCL 500.3157a(1).

service providers. These rates ranged from \$31.75 to \$35.00 per hour for high-tech home health aide services.

In its reply, Respondent provided a market survey completed at its request. The market survey consisted of hourly rates from ten attendant care and skilled nursing providers. The rates charged for high-tech home health care services in the Respondent's market survey range from \$29.00 to \$35.00 per hour. The Respondent's market survey also included hourly rates from six companies for basic home health aide services, licensed practical nurse services, and services provided by a registered nurse; however, these rates are not relevant to determining the appropriate rate for high-tech home health aid services. The Respondent's data showing a market range of \$29.00 to \$35.00 per hour does not support its assertion that the \$35.00 charged by the Petitioner is inappropriate. Accordingly, the Department is unable to conclude that the rate charged by the Petitioner for the high-tech home health aide care provided to the injured person is inappropriate under Chapter 31 of the Code, MCL 500.3101 *et seq.*

The Department finds that Respondent has not demonstrated that the Petitioner's billed hourly rate of \$35.00 per hour for high-tech home health aide services is inappropriate under Chapter 31 of the Code, MCL 500.3101 *et seq.*


IV. ORDER

The Department reverses Respondent's determination, and orders Respondent to reimburse Petitioner in the amount of \$4,762.50 for the dates of services at issue, plus interest as provided under MCL 500.3142 and R 500.65(6). Respondent shall, within 7 days of the date of this order, submit proof that it has complied with this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in the 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 the 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