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. 21-1017**

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 1st day of June 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. Procedural Background

On April 12, and April 14, 2021, Hesselberg Chiropractic (Petitioner) filed with the Director of the Department of Insurance and Financial Services (Department) seven requests for appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The requests for appeal concern bills denied by Citizens Insurance Company of the Midwest (Respondent) to the Petitioner for chiropractic treatments rendered to the injured person.

The Department accepted the appeal requests on April 14, 2021 and consolidated them into a single appeal. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on April 15, 2021. The Respondent filed a reply to the Petitioner's appeal on May 4, 2021. In support of its reply, the Respondent attached seven responses, all dated April 30, 2021, relating to the dates of service at issue.

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 May 18, 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 full.

II. Factual Background

This appeal concerns the denial of bills by the Respondent to the Petitioner for chiropractic services. Respondent issued three separate determination letters dated April 6, 8, and 13, 2021 for the

following six dates of service: January 12, 26, 29, 2021; February 2 and 3, 2021; and March 24, 2021. The Respondent did not request written explanations from the Petitioner regarding the medical necessity or indication for the treatment rendered for the dates of services at issue.

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 97012, 97110, 98942 and 99214.

In its first determination letter dated April 6, 2021, the Respondent denied payment for CPT codes 97012 and 97110 (mechanical traction and therapeutic exercise) for the January 26, 2021 treatment as not medically necessary. However, the Respondent did approve payment for spinal manipulation and for an established patient office visit (codes 98942 and 99214) as medically necessary. The Petitioner requested reconsideration of the unapproved portions of this bill in a letter dated April 12, 2021. In its reply to the appeal, the Respondent issued a second determination on April 30, 2021, denying the unpaid portion as not medically necessary.

For the remaining two determination letters dated April 8 and 13, 2021 and the remaining dates of service at issue, the Respondent denied payment and indicated that the rendered treatments were not medically necessary. The Petitioner requested reconsideration in letters dated April 12 and 14, 2021. In its reply to the Petitioner's appeal, the Respondent included responses issued April 30, 2021, denying payment for these dates of service as not medically necessary.

Petitioner's Argument:

In its appeal, the Petitioner argues that the chiropractic 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 the 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 involves issues of medical necessity and overutilization of services.

In support of its appeal, the Petitioner argues that the injured person had slowly been improving since treatment began December 28, 2020. In the medical records, the Petitioner noted that the injured person's pain level had reduced 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. No initial examination record was included with the supporting documentation.

In support of its position, the Respondent submitted responses dated April 30, 2021 for the dates of service at issue. The responses stated that the medical services were reviewed based on the documentation submitted and in accordance with national and regional standards of care. The Respondent's initial determinations issued to Petitioner referenced the following standards of care and resources 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 report, the IRO reviewer recommended that the Director uphold Respondent's determinations related to the treatment rendered on the dates of service at issue and concluded that medical necessity was not supported based on the submitted documentation.

The IRO reviewer is board-certified in chiropractic medicine. The IRO reviewer's report references 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, boards, and associations. In addition, the IRO report cites peer-reviewed journal articles supporting current evidence-based practice guidelines and relies on The Council on Chiropractic Guidelines and Practice Parameters (CCGPP), which advises that treatment that is reasonable, medically necessary, and generally accepted by the medical community must indicate evidence of progressive, sustained improvement.

The IRO reviewer noted that the CCGPP guidelines indicate that a thorough history and evidence-informed examination procedures are critical components of chiropractic care and should be followed by a focused re-evaluation after an initial course of treatment. The IRO reviewer found that the documentation submitted by the Petitioner in support of its appeal did not show progressive, sustained improvement and did not support an evidence-based trial of treatment. The IRO reviewer indicated that the medical documentation did not support close monitoring of the injured person's progress to ensure that "acceptable clinical gains [were] realized." Notably, the IRO stated that documentation of an initial history and examination for the start of care on December 28, 2020 was not submitted, and there was no clear

indication in the medical records that the injured person received a trial course of chiropractic care of six to twelve visits over the course of two to four weeks, as supported by the practice guidelines.

Addressing the issue of medical necessity, the IRO reviewer stated:

> The documentation is insufficient and lacking information to support the medical necessity of treatment ... Chiropractic care for this patient does not meet guidelines as being medically necessary, is not in accordance with generally accepted standards of medical practice, and not consistent with chiropractic practice guidelines or standards of care. It appears not be clinically appropriate, in terms of type, frequency, extent, site and duration, and not considered effective for the patient's illness, injury or disease.

The records submitted by the Petitioner included an examination record dated January 26, 2021, documenting a thorough evaluation[1] and initiation of a new care plan at three times per week for four weeks. The injured person received four treatments during the following two-week period. However, the IRO noted that there is no evidence that the Petitioner performed a re-evaluation to substantiate the necessity of additional treatment and to support progressive, sustained improvement consistent with CCGPP guidelines.

Specifically, the IRO report stated:

> After the initial projected treatment plan for this condition was complete, approximately 4 weeks later, the provider failed to document a re-evaluation. This would have been an acceptable standard to measure patient improvement and support the medical necessity of continued care.
>
> The submitted documentation is inadequate to provide the clinical rationale for appropriate diagnosis, treatment plan according to documented subjected and objective findings, subsequent treatment planning and establishing medical necessity. There is no documentation of a detailed or focused re-evaluation performed after an initial projected course of treatment had been concluded, or with continued care through 3/24/21.

The IRO reviewer reasoned that supporting documentation submitted by the Petitioner was inadequate to determine if chiropractic care was overutilized in frequency or duration due to the infrequent office visits and the long gap in treatment between February 3, 2021 and March 24, 2021. The IRO further noted that the documentation did not support a standard frequency of services consistent with the care plan and practice guidelines. Specifically, following the February 3, 2021 visit, the injured person received no

[1] The IRO reviewer noted that chiropractic manipulative therapy was justified on January 26, 2021 according to the documentation and thorough evaluation, but there was no documented support for mechanical traction or therapeutic exercises on that date of service.

documented treatment until March 24, 2021, and the injured person's back and neck pain levels had only improved slightly from the new care plan initiated in January 2021.

The IRO reviewer stated:

> Furthermore, the most dramatic improvement was noted on the last submitted DOS, 3/24/21, when the patient's low back VAS was 3/10 (decreased from 5/10 on 2/3/21) and no left shoulder pain was reported. The improvement occurred without treatment from 2/3/21 to 3/24/21.
>
> The clinical documentation does not provide evidence that treatment from initial date of presentation, 12/28/20 through 3/24/21, has offered the patient any prompt or significant long-term improvement. The records document continued pain complaints of 4/10, and do not clearly establish medical necessity for chiropractic care from 1/12/21 to 3/24/21, with the exception of 1/26/21 for 98942 and 99214.

The IRO reviewer opined that the supporting documentation submitted by the Petitioner did not adequately support the treatments performed as appropriate for the injured person's diagnoses. Specifically, the IRO noted that critical information was missing from the records to show measurement of improvement levels and levels of severity relating to therapeutic exercises provided. The IRO reviewer stated that the spinal manipulation treatments were appropriate for subluxated segments of the spine; however, the initial left shoulder and elbow complaints were not treated or included on the list of diagnoses. The reviewer further stated that mechanical traction (97012) was not an appropriate service, specifically noting the following:

> The patient did not report symptoms of radiculopathy in his subjective complaints, and the provider did not describe radiculopathy in objective findings. Furthermore, no orthopaedic testing was reported, specifically positive tests, that would warrant mechanical traction as a treatment, and the patient diagnoses did not support evidence of radiculopathy.

The IRO reviewer further opined that the therapeutic exercises (97110) that were performed were inappropriate based on inadequate documentation. The IRO reviewer stated:

> Although decreased ROM were noted, no numerical values were noted. It is unclear if these reduced values were severe, or only reduced within functional limits. No strength testing or functional capacity was reported. Therefore, therapeutic exercises would not be appropriate for this patient's condition, without supporting documentation.

The IRO recommended that the supporting documentation submitted by the Petitioner failed to substantiate the medical necessity for the rendered treatment identified on the dates of service at issue in the April 6, 8, and 13, 2021 determinations. Further, the IRO found that the documentation for the chiropractic treatments on those dates did not reflect medically accepted standards, as defined by R

500.61(i) and evidence-based practice guidelines as outlined by the IRO report. Therefore, the Department upholds the Respondent's determinations dated April 6, 8, and 13, 2021.

IV. ORDER

The Director upholds the Respondent's determinations dated April 6, 8, and 13, 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