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. 21-1021**

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 11th day of June 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. Procedural Background

On April 21, 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 chiropractic treatments.

The Department accepted the request for appeal on April 21, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on April 30, 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 19, 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 4, 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 1, 2021. The Respondent issued a determination letter dated April 20, 2021. The Respondent did not

request a written explanation from the Petitioner regarding the medical necessity or indication for the treatment rendered for the date of services at issue.

With its appeal request, the Petitioner submitted supporting documentation demonstrating the following diagnoses for the date 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 treatments included spinal manipulation, mechanical traction, and therapeutic exercises. The CPT codes billed were 98942, 97012, and 97110, respectively.

In its determination letter dated April 20, 2021, the Respondent denied payment for CPT codes 97012, 97110, and 98942. With its reply to the appeal, the Respondent issued a second determination on May 19, 2021, denying payment for the treatment as 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 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 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 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 or subsequent re-examination records were included with the supporting documentation.

The Respondent's initial determination dated April 20, 2021 stated that the medical services were reviewed based on the documentation submitted and in accordance with national and regional standards of

care. The determination 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 reply dated May 19, 2021, the Respondent stated that the short-term goal lacked a durational element, and that the Petitioner's documentation did not substantiate the treatment rendered as in accordance with generally accepted medically standards.

The Director assigned an IRO to review the case file. In its June 4, 2021 report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the date of service at issue, and the treatment was overutilized in duration.

The IRO reviewer is board-certified in chiropractic medicine. The IRO reviewer references 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. In addition, the IRO report cites peer-reviewed journal articles supporting current evidence-based practice guidelines and references the American College of Occupational and Environmental Medicine (ACOEM) Occupational Medicine Practice Guidelines and the Council on Chiropractic Guidelines and Practice Parameters (CCGPP).

Relying on supporting documentation submitted by the Petitioner regarding the April 1, 2021 date of service, the IRO reviewer stated that the treatment was not medically necessary in accordance with medically accepted standards as defined by R 500.61(i). The reviewer noted that the injured person's status relating to complaints of pain in the low back, upper back, and neck were documented in the medical record as "unchanged," despite four months of ongoing treatment.

Specifically, the IRO reviewer stated:

> As such, a medical endpoint was reached regarding chiropractic treatment. The documentation does not show ongoing clinical improvement, and there was no documentation of what non-supervised home rehabilitation in the form of therapeutic exercise was being utilized. Further, there were no detailed examination or re-examination notes, no details about subluxation, spasm or ranges of motion.

The IRO reviewer stated that treatment was overutilized in duration for the reasons stated above and highlighted the accepted standards of care for an adequate trial of treatment, explaining that "treatment/care must be documented as having therapeutic necessity." Specifically, the IRO reviewer stated:

> A course of two weeks each of two different types of manual procedures (four weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated. This was not documented in this case.

Consistent with that finding, the IRO reviewer stated that the short-term goals documented in the medical records did not meet medically accepted standards as defined by R 500.61(i), stating the following:

> The short-term goals were not fully explicated, in terms of duration, with no time frame for reaching the stated goals (reduced pain levels and improved activities of daily living). As such the medically accepted standards were not met.

The IRO reviewer recommended that the Director uphold the Respondent's determination that medical necessity was not established for the treatment rendered on April 1, 2021. Further, the IRO reviewer found that the short-term goals did not meet medically accepted standards, as defined by R 500.61(i), and were not supported by the standard evidence-based practice guidelines outlined in the report. Therefore, the Department upholds the Respondent's determination of April 20, 2021.

IV. ORDER

The Director upholds the Respondent's determination dated April 20, 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