

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

In the matter of:

**Awesome Chiropractic, P.C.**  
**Petitioner**

**File No. 21-1027**

v

**Citizens Insurance Company of the Midwest**  
**Respondent**

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**Issued and entered**  
**this 21<sup>st</sup> day of June 2021**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On April 28, 2021, Awesome Chiropractic, P.C. (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 for an appeal concerns bills denied by Citizens Insurance Company of the Midwest (Respondent) for chiropractic treatments.

The Department accepted the request for an appeal on April 29, 2021. Pursuant to R 500.65, the Director notified Respondent and the injured person of Petitioner's request for an appeal on May 6, 2021. Respondent filed a reply to the Petitioner's appeal on May 24, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report 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 reimbursement in the full amount billed for the treatments and dates of service at issue.

**II. FACTUAL BACKGROUND**

The Petitioner appeals the denial of payment for CPT codes 97012, 97110, 97112, 98941, and 98943 on two dates of service: February 4, 2021 and February 8, 2021. On April 20, 2021, the Respondent

issued a determination to the Petitioner denying payment on the basis that the treatments were not medically necessary.

#### Petitioner's Argument

In its appeal, the Petitioner argues that the injured person was making progress and showing improvements in her condition. The Petitioner also notes that the Respondent's determination contained a factual error when it stated that the treatment was provided "eight months post accident date," when the accident occurred on August 12, 2020, less than six months after the accident. The Petitioner also argues that the Respondent's determination did not take into consideration x-ray findings.

#### Respondent's Argument

In its reply, the Respondent stated: "Denied per review of medical documentation. Treatment is not medically necessary." The Respondent attached its original determination for the February 4, 2021 date of service to its reply; the Respondent did not attach the original determination for the February 8, 2021 date of service, nor did the Respondent include any additional information.

### **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 argument, the Petitioner stated that the injured person was experiencing slight improvements in dizziness, rib discomfort, left and right shoulder pain, left hand pain, bilateral leg pain, left and right knee pain, left and right calf pain, and muscle spasms. The Petitioner stated that the injured person was experiencing increased lower back pain but a "distinct improvement" in midback pain. The Petitioner further noted that the injured person's x-rays demonstrated permanent soft tissue damage as intersegmental hypermobility of C1, C2, C3, C4, C5, and C6, and loss of normal cervical curve and hypomobility during flexion and extension. The Petitioner stated that the treatments rendered on the dates of service at issue were medically necessary.

The Respondent determined these services were medically unnecessary based on the fact that the treatments were rendered eight months after the injury was sustained and that the Petitioner's submitted documentation failed to support the medical necessity for the services. However, as the Petitioner noted, the Respondent's statement regarding the eight-month interval between the accident and the dates of service is erroneous. The Respondent's determination also stated that the documentation submitted by the

Petitioner did not substantiate the treatments rendered on the dates of service at issue.

The Director assigned an IRO to review the case file and provide a recommendation. In its June 14, 2021 report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue.

The IRO reviewer is a licensed chiropractor and board-certified in chiropractic medicine, with at least five years of full-time equivalent experience providing direct clinical care to patients. The IRO reviewer relied on the Official Disability Guidelines (ODG) and ACOEM guidelines for medically accepted standards relating to treatment of the injured person's diagnosed conditions.

The IRO reviewer stated the documentation supplied by Petitioner did not support medical necessity or overutilization of the services provided. In addition, the IRO reviewer noted several discrepancies between the documentation in the January 7, 2021 note and the remainder of the medical records submitted by the Petitioner. Specifically, the IRO reviewer noted the following:

There is no information on the injured person receiving any care or services between August 31, 2020 and January 7, 2021. It is also unclear if the injured person was receiving ongoing treatment from the Petitioner after the January 7, 2021 date of service.

- Patient's recollection and documentation of the details involved in the accident is atypically clear considering the recollection occurred 4-5 months post-accident. Documentation includes the injured person's head position in the car in degrees, pain ratings immediately after, 10 minutes after and 11-12 days after the accident.
- Muscle testing of the right lower back was rated at 3/5, which would indicate the injured person is unable to sit up straight without support. Likewise, weakness of the gluteus medias, hip joint and lower legs were all rated as 3/5, which would indicate a patient that is unable to walk and is most likely utilizing a wheelchair. These orthopedic test ratings do not coincide with the documentation stating the injured person had no physical deformities and no physical distress.
- The documentation details global altered sensations. The Petitioner's review of the injured person yielded 48 different diagnoses with no comorbidities listed. That is not typical from the type of motor vehicle accident described. Similarly, the goal to returning the injured person to functional independence was not accompanied by any specific deficits.

The IRO reviewer cited the conflicting records and the lack of medical documentation regarding prior care as the basis for the reviewer's recommendation to uphold the Respondent's determination that the services were not medically necessary. The IRO reviewer also noted that it took into account the Respondent's error in the determination regarding the number of months since the accident and found that

the error was "inconsequential" and did not affect the recommendation to uphold the Respondent's determination. Accordingly, the Director upholds the Respondent's determination dated April 20, 2021.

#### IV. ORDER

The Director upholds 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*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford