STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Essential Family Chiropractic
Petitioner **File No. 21-1031**

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 21st day of June 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 4, 2021, Essential Family Chiropractic (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 chiropractic treatments rendered by the Petitioner.

The Department accepted the request for appeal on May 5, 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 5, 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 21, 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 and appeal to the Department. 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 treatments rendered on March 10, 2021 under current procedural terminology (CPT) codes 98941 and 99199, for chiropractic manipulation and thermal and surface scans, respectively. In March 2021, the Petitioner submitted a bill to the Respondent for reimbursement of those treatments. On April 14, 2021, the Respondent issued an Explanation of Review in which the Respondent denied the Petitioner's bill for chiropractic treatments. The Respondent did not request a written explanation from the Petitioner regarding the medical necessity for the treatments at issue.

The Respondent, following review of the medical records provided by the Petitioner, determined both treatments provided on the date of service at issue were not medically necessary. Further, the Respondent disallowed procedure code 99199, on the basis that the "provider did not identify the service or materials supplied sufficiently, or the service or materials were not sufficiently quantified, to make payment possible."

The Petitioner provided the Department with the injured person's medical records for the date of service at issue, including treatment notes for chiropractic manipulation and thermal and surface scans.

Petitioner's Argument:

In its appeal request, the Petitioner argues that the chiropractic care provided to the injured person under procedure codes 98941 and 99199 were medically necessary for the treatment of segmental and somatic dysfunction of the cervical, thoracic, lumbar, sacral, and pelvic region, low back pain, lumbago with sciatica of unspecified side, and abnormal posture.

Respondent's Argument:

In its reply, the Respondent reaffirmed its position that the chiropractic care rendered under procedure codes 98941 and 99199 was properly denied based on a physician's review of the initial clinical diagnosis and the medical documentation submitted. Based on its review, the Respondent argues that there was no significant improvement with continual treatment and thus the documentation did not substantiate the services as standard professional treatment protocol.

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 position, the Petitioner supplied medical documentation detailing the subjective and objective findings of the March 10, 2021 treatment visit. The injured person reported neck and low back pain. The Petitioner also supplied narrative results for the thermography and surface electromyography study. The Petitioner argues that the purpose of the testing was to assess sympathetic nerve function.

In its reply, the Respondent stated that upon physician review the services rendered were not substantiated through documentation as standard professional treatment protocols. The Respondent asserted that there was no significant improvement with continual treatment, and procedure codes 98941 and 99199 were denied.

The Director assigned an IRO to review the case file. In its June 14, 2021 report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was partially supported for the date of service at issue.

The IRO reviewer is board-certified in chiropractic medicine. The IRO reviewer referenced R500.61(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, board, and associations. The IRO reviewer relied on peer-reviewed journal articles supporting current evidence-based practice guidelines, including Best Practices for Chiropractic Management of Patients with Chronic Musculoskeletal Pain: A Clinical Practice Guideline.

The IRO reviewer opined that the chiropractic treatment provided to the injured person on March 10, 2021 was medically necessary in accordance with medically accepted guidelines.

Specifically, the IRO reviewer stated:

> Per the current literature, nonoperative treatments such as chiropractic care is supported for the treatment of chronic pain. [Therefore,] [e]vidence-based guidelines/literature support the treatment with CPT code 98941 (chiropractic manipulative treatment (CMT)) on 3/10/2021.

Further the IRO reviewer opined that based on medical records, the injured person appeared to have improved with the use of chiropractic treatment. Specifically, the IRO reviewer stated:

> The chiropractic treatments provided appear to be medically beneficial. It appears that the injured person went from a pain scale of 5/10 to a 2/10. The low back pain

> went from 6/10 to 3/10. Therefore, the use of 98941 on 03/10/2021 was medically necessary. The records provided do not contain quantified examinations. Therefore, continuation of chiropractic treatment is not medically indicated. As such, discontinuation of chiropractic treatment [is] appropriate based on medical documentation.

Accordingly, while the IRO reviewer concurred with the Respondent's determination that discontinuation of chiropractic treatment is appropriate following the date of service at issue, the IRO reviewer opined that the chiropractic treatments provided to the injured person under procedure code 98941 on March 10, 2021 were medically necessary in accordance with medically accepted standards as defined by R 500.61(i).

However, the IRO reviewer did not agree with the Petitioner's use of procedure code 99199 for the thermography scan, as it was not medically necessary or supported by medical documentation. Specifically, the IRO reviewer noted:

> Although thermography has been used to measure improvement in an injured persons with whiplash injury; in this particular case the injured person has been improving with the treatments being rendered. It is unclear how these tests would determine future care of the injured person. Therefore, medical documentation does not support the use of procedure code 99199.

The IRO reviewer stated that the chiropractic treatments provided to the injured person on March 10, 2021 were medically necessary under procedure code 98941; however, the Petitioner's use of procedure code 99199 for the thermal and surface scans were not substantiated in the medical documentation submitted as medically necessary. Based on the IRO reviewer's findings, the Director reverses, in part, and upholds, in part, the Respondent's April 14, 2021 determination. The Department finds that the Respondent has not demonstrated that the Petitioner provided treatment above the usual range of utilization, based on medically accepted standards for procedure code 98941.

IV. ORDER

The Director reverses, in part, the Respondent's determination, and orders Respondent to reimburse Petitioner in the amount of $60.00 for procedure code 98941 on the date of service 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 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