

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

In the matter of:

Lighthouse Rehabilitation Center
Petitioner

File No. 21-1039

v

Progressive Marathon Insurance Company
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On May 13, 2021, Lighthouse Rehabilitation Center (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 appeal concerns reduced reimbursement paid by Progressive Marathon Insurance Company (Respondent) treatment rendered by the Petitioner.

The Department accepted this appeal on May 17, 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 17, 2021, and the Respondent received a copy of the Petitioner's submitted documents. Respondent filed a reply to the Petitioner's appeal on June 3, 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 30, 2021.

The Petitioner's appeal is made under R 500.64(3) and 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 an appeal to the Department. The Petitioner seeks reimbursement in the amount of \$219.50, which is the difference in payments for the dates of service at issue.

II. FACTUAL BACKGROUND

This appeal concerns reduced reimbursement paid by the Respondent for physical and speech therapy treatments rendered on October 8 and 29, 2020. The Petitioner provided treatment to the injured person under CPT Codes 97112, 97162, and 92523.

On November 21, 2020, the Petitioner submitted a bill to the Respondent for reimbursement of the dates of service at issue. In an Explanation of Benefits dated December 21, 2020, the Respondent denied the Petitioner's bill for the dates of service at issue on the basis that payment was issued in an amount the Respondent deemed reasonable based on the FH Charge Benchmark Database. On January 7, 2021, the Petitioner submitted a letter to the Respondent requesting reconsideration of the denied bill. On February 9, 2021, the Respondent issued an Explanation of Benefits sustaining the bill denial providing the reasoning that the Petitioner "did not provide documentation and/or did not establish that the cost of treatment is reasonable per our previous requests." On February 22, 2021, the Petitioner submitted another request for reconsideration to the Respondent. On March 3, 2021, the Respondent issued a final Explanation of Benefits letter sustaining the denial asserting that the Petitioner was reimbursed at a reasonable amount.

Petitioner's Argument

In its appeal request, the Petitioner argues that the Respondent's use of the FH Charge Benchmark Database for allowed reimbursement is not reasonable. Further, the Petitioner argues that its charges are usual and customary and that it expects full reimbursement for the procedure codes at issue.

Respondent's Argument

In its reply, the Respondent stated that it issued payment reasonably based on the FH Charge Benchmark Database in accordance with MCL 500.3107 and MCL 500.3157. In addition, the Respondent asserts that the Petitioner "did not provide documentation and/or did not establish that the cost of treatment is reasonable."

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 is a matter regarding appropriateness of cost for services rendered.

In support of their position, the Petitioner asserts that it expects full reimbursement for the dates of service at issue. Under Chapter 31 of the Code, a provider may charge a reasonable amount for treatment,

training, products, services, or accommodations; an insurer is required to reimburse “reasonable charges” for services. See MCL 500.3157(1)¹; MCL 500.3107(1)(a). Under the Code, “the ‘customary charge’ limitation in § 3157 and the ‘reasonableness’ language in § 3107 constitute separate and distinct limitations on the amount health-care providers may charge and what insurers must pay with respect to victims of automobile accidents who are covered by no-fault insurance.” *Advocacy Org for Patients & Providers v Auto Club Ins Ass’n*, 257 Mich App 365 at 376, 670 NW2d 569 (2003), *aff’d* 472 Mich 91, 693 NW2d 368 (2005).

In its denial, the Respondent stated that payments were reduced to an amount deemed reasonable based on the FH Charge Benchmark Database pricing benchmarks for the procedure codes submitted.

The Director assigned an IRO to review the case file. The IRO reviewer is an AAPC Certified Professional Coder and has twelve years of experience as a professional coder and auditor. In its June 30, 2021 report, the IRO reviewer noted that the submitted records revealed that:

[The] total amount charged for services rendered for the procedure codes 97112, 97162 and 92523 performed on October 8, 2020 and two units of the 97112 performed on October 29, 2020 are \$922.50. The total amount allowed for these services are noted as \$703.00 using the FAIR Health Charge Benchmark Database. The [Petitioner] is appealing for further reimbursement of \$219.50 towards the October 2020 services.

Based on the submitted documentation, the IRO reviewer concluded that the reasonable and customary charges for procedure codes 97112, 97162, and 92523 on the dates of service at issue totals \$795.00 and recommended an additional reimbursement of \$92.00 be paid to the Petitioner. Specifically, the IRO reviewer stated:

Reasonable and customary charges are determined by the time and place the services were provided, surveys of other neurological rehabilitation providers in or within the close proximity of same zip code, and Fair Health [FH] Charge Benchmark Database. Inquiries were also made to multiple neurological rehabilitation providers in and around zip code 48723² to determine reasonable and customary charges. The reasonable and customary fee for service is based on the median of charges reported by neurological rehabilitation providers in or within the close proximity of zip code 48723.

¹ Section 3157 was amended by PA 21 of 2019; however, the relevant language in what is now Section 3157(1) was substantively unchanged and is therefore applicable to the dates of service in this appeal.

² This is the Petitioner’s ZIP code as identified on the March 3, 2021 Explanation of Benefits.

Date(s) of Service	Code Billed	Units	Provider Amount Billed	Amount Paid	Reasonable and Customary Fee for Service
10/08/2020	97112	1	\$71.50	\$42.00	\$50.00
10/08/2020	97162	1	\$365.00	\$345.00	\$345.00
10/08/2020	92523	1	\$343.00	\$232.00	\$300.00
10/29/2020	97112	2	\$143.00	\$84.00	\$100.00

The IRO reviewer recommended that the Director reverse the Respondent's determination.

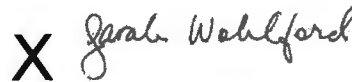
IV. ORDER

The Director reverses Respondent's March 3, 2021 determination and orders Respondent to reimburse Petitioner in the amount of \$92.00 for procedure codes 97112, 97162, and 92523 rendered on October 8 and 29, 2020, 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



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford