

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

In the matter of:

Iris B. Daniel, M.D
Petitioner

File No. 21-1050

v

ASMI Auto Insurance Company
Respondent

Issued and entered
this 26th day of July 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 25, 2021, Iris B. Daniel, M.D. (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 bill denials from ASMI Auto Insurance Company (Respondent) on the basis that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatments under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from a denial of a provider's bill. The Petitioner now seeks payment in the full amount billed for the dates of service at issue.

The Department accepted the request for appeal on June 16, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on June 18, 2021, and the Respondent received a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on June 28, 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 to the Department on July 13, 2021, providing a recommendation to the Department on the issues in this appeal.

II. FACTUAL BACKGROUND

The Petitioner appeals the denial of payment for hyperbaric oxygen therapy treatments rendered on 42 dates of service from January 26 through May 5, 2021, under procedure codes 99183 and G0377. On May 7, 2021, the Respondent issued an *Explanation of Medical Bill Payment* letter denying payment for the 42 dates of service at issue “in accordance with Hyperbaric Oxygen Therapy for Infectious Diseases per ODG guidelines, this request exceeds maximum of four weeks, or 20 visits per ODG guidelines.”

In its appeal request, the Petitioner argues that continued hyperbaric oxygen therapy treatments are necessary to maintain control of the injured person’s medical diagnosis. In a letter included with its appeal request, the Petitioner stated that the injured person’s diagnosis has been stable with chronic hyperbaric medical treatment. The Petitioner stated that surgical options are limited for the injured person. The Petitioner provided further explanation in its appeal stating:

[The injured person] continues to pursue medical management of his chronic infection with antibiotic suppression consisting of Bactrim and Clindamycin, wound care, hyperbaric oxygen treatments, and physical therapy. Currently due to above combination treatment, [the injured person’s] wound has been stable, and [the injured person] has a prosthetic leg with a well-fitting cuff allowing [the injured person] to have a stable life and carry on with activities of daily life.

In its reply, the Respondent reaffirmed its position that the hyperbaric oxygen treatments were denied because additional treatment is not recommended in accordance with ACOEM guidelines for hip and groin disorders. The Respondent goes on to state that the “the denial is upheld as the information did not support the need for the treatment.”

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 and overutilization of treatment.

The Director assigned an IRO to review the case file. In its July 13, 2021 report, the IRO reviewer opined that the documentation submitted failed to establish medical necessity for the hyperbaric oxygen therapy treatments and that the treatments were overutilized in frequency and duration for the dates of service at issue, in accordance with medically accepted standards as defined in R 500.61(i).

The IRO reviewer is board certified in internal medicine and infectious disease. The IRO reviewer referenced 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, board, and associations. The IRO reviewer relied on peer-reviewed journal articles supporting current evidence-based practice guidelines, including Indications for Hyperbaric Oxygen Therapy from the Undersea and Hyperbaric Medical Society.

The IRO reviewer noted that the hyperbaric oxygen therapy treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted guidelines. The IRO reviewer stated that:

The hyperbaric oxygen therapy provided to the injured person for 42 dates of service from 01/26/2021 through 05/04/2021 was not medically necessary in this case. The use of hyperbaric oxygen therapy in chronic osteomyelitis for prolonged time periods is not justified by the currently available evidence.

In support of its recommendation, the IRO reviewer explained that the injured person has a history of a motor vehicle accident in May 2008, complicated by “left open femur fracture and left tibia fracture that resulted in a left below the knee amputation.” The IRO reviewer stated that in a clinical note dated October 8, 2020, the injured person presented for a follow up of “chronic left femur MRSA osteomyelitis with sequestrum.”

Specifically, the IRO reviewer noted the following:

[T]oday, no randomized clinical trials examining the effect of hyperbaric oxygen therapy in refractory osteomyelitis exist. Animal data, human case series and non-randomized prospective trials suggest that the additional hyperbaric oxygen therapy to routine surgical and antibiotic management in previously refractory osteomyelitis is safe and improves the ultimate rate of infection resolution.

However, the IRO reviewer also stated that the hyperbaric oxygen therapy treatments had exceeded their therapeutic effect for this case. Specifically, the IRO reviewer explained:

[2]0-40 post-operative hyperbaric oxygen therapy sessions will be required to achieve sustained therapeutic effect and if prompt clinical response is not noted or osteomyelitis recurs after this initial treatment, then continuation of existing antibiotic and hyperbaric oxygen treatment regimen is unlikely to be effective.

The documentation provided supported that hyperbaric oxygen therapy was attempted prior to 01/26/2021. Therefore, additional treatment started on 01/26/2021 was not necessary. Furthermore, as of 04/13/2021, the injured person was on treatment #106. As such, the hyperbaric oxygen therapy provided to the injured person for 42 dates of service from 01/26/2021 through 05/04/2021 was not medically necessary in this case.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the hyperbaric oxygen therapy treatments provided to the injured person on the dates of service at issue were not medically necessary and, further, were overutilized under medically accepted standards as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated May 7, 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:

7/26/2021

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford