

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, Inc.
Petitioner

File No. 21-1055

v

Progressive Marathon Insurance Company
Respondent

Issued and entered
this 5th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 1, 2021, Lighthouse, Inc. (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 the bill denial of Progressive Marathon Insurance Company (Respondent) on the basis that the Petitioner's cost of the treatment was inappropriate 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 the denial of a provider's bill. The Petitioner now seeks reimbursement in the amount of \$591.75, which is the difference in payment for the dates of service at issue.

The Department accepted the request for an appeal on June 18, 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 provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on July 8, 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 and recommendation to the Department on August 5, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the reduced reimbursement for treatments rendered by the Petitioner for procedure codes 90832, 92526, 97530, 36415, and 99000 for 19 dates of service between November 4, 2020 through January 29, 2021.¹ On March 15, 2021, March 19, 2021, and April 1, 2021, the Respondent issued Explanation of Benefits letters to the Petitioner reducing payment on the basis that “the amount allowed was reviewed using the FH Charge benchmark database.”

With its appeal request, the Petitioner argues that it is entitled to full reimbursement for the dates of service at issue. The Petitioner stated that it is not in agreement with the Respondent’s reduced payment based on FAIR Health Data Benchmarks. In a letter included with its appeal request, the Petitioner explained:

We believe it is reasonable for us to be allowed to charge rates, for the services we provide to your clients, which will cover the expense we incur to run our business.

In its reply, the Respondent reasoned that it paid the Petitioner “the amount it believed to be reasonable per 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 of inappropriate cost.

Under Chapter 31 of the Code, a provider may charge a reasonable amount for treatment, training, products, services, or accommodations; however, an insurer is only required to reimburse “reasonable charges” for services. See MCL 500.3157(1)², 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*

¹ November 4, 5, 19, 23, and 25, 2020; December 3, 4, 10, 11, 16, 23, and 30, 2020; and January 7, 8, 11, 14, 18, 21, and 29, 2021.

² 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.

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).

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that the Respondent's reimbursement amount for procedure code 99000 was inappropriate based on Fair Health Benchmark standards but that the reimbursements for the remainder of the codes was appropriate.

The IRO reviewer is a Certified Professional Coder (CPC), Certified Professional Biller (CPB), and Certified Professional Medical Auditor (CPMA), with American Academy of Professional Coders (AAPC) accreditation.

Per the IRO, the FAIR Health Products represent charge benchmarks for various geographic areas based on the claims data contributed to FAIR Health at the 80th percentile. In its report, the IRO reviewer concluded that the Respondent's reimbursement amounts for procedure codes 92526, 36415, 90832, and 97530 were above the FAIR Health Charge Benchmarks. In addition, the IRO reviewer concluded that the Respondent's reimbursement amount for procedure code 99000 was below the FAIR Health Charge Benchmark, and the Petitioner should be reimbursed the difference in the amount of \$6.00.

In support of its recommendation, the IRO reviewer provided the table listed below:

DATE OF SERVICE	PROCEDURE CODE	MOD	UNITS	AMOUNT CHARGED	AMOUNT ALLOWED	FAIR HEALTH
11/04/2020	92526		1	197.25	192.00	157.50
11/05/2020	90832	AJ	1	131.50	95.00	93.00
11/19/2020	90832	AJ;GT	1	131.50	95.00	93.00
11/23/2020	90832	AJ;GT	1	131.50	95.00	93.00
11/25/2020	99000		1	22.00	16.00	65.00
12/03/2020	92526		1	197.25	192.00	157.50
12/03/2020	90832	AJ;GT	1	131.50	95.00	93.00
12/04/2020	92526		1	197.25	192.00	157.50
12/10/2020	90832	AJ;GT	1	131.50	95.00	93.00
12/11/2020	92526		1	263.00	192.00	157.50
12/16/2020	90832	AJ;GT	1	131.50	95.00	93.00
12/23/2020	90832	AJ;GT	1	131.50	95.00	93.00
12/30/2020	90832	AJ;GT	1	131.50	95.00	93.00
01/07/2021	92526	AJ	1	263.00	192.00	157.50
01/08/2021	92526		1	197.25	192.00	157.50
01/08/2021	90832	AJ;GT	1	131.50	95.00	93.00
01/11/2021	92526		1	197.25	192.00	157.50
01/11/2021	90832	AJ;GT	1	131.50	95.00	93.00
01/14/2021	92526		1	197.25	192.00	157.50
01/18/2021	90832	AJ;GT	1	131.50	95.00	93.00
01/21/2021	92526		1	197.25	192.00	157.50
01/29/2021	97530	GT	1	106.50	101.00	97.00
TOTAL				3481.75	2890.00	2602.50

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that procedure code 99000 was reasonably reimbursed, and that the Petitioner be

reimbursed an additional \$6.00. Further, the IRO reviewer recommended that the Director uphold the Respondent's determination that procedure codes 92526, 36415, 90832, and 97530 were reasonably reimbursed.


IV. ORDER

The Director reverses the Respondent's determination dated March 15, 2021 for procedure code 99000. The Director upholds the Respondent's determinations dated March 15, 2021, March 19, 2021, and April 1, 2021 for procedure codes 92526, 36415, 90832, and 97530.

The Petitioner is entitled to payment in the amount of \$6.00 and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 7 days of this order, submit proof that it has complied with this order. This order is subject to judicial review as provided in section 244(1) of the Code, MCL 500.244(1).

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