

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

In the matter of:

**HC Associates, LLC**  
**Petitioner**

**File No. 21-1068**

**v**

**State Farm Mutual Automobile Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 29<sup>th</sup> day of July 2021**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 4, 2021, HC Associates, LLC (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 the determination of State Farm Mutual Automobile Insurance Company (Respondent) that the Petitioner's cost of 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 a denial of a provider's bill. The Petitioner now seeks reimbursement in the amount of \$767.60, which is the difference between the amount the Petitioner billed and the amount the Respondent reimbursed for the dates of service at issue.

The Department accepted the request for 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 the Respondent received a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on July 7, 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 July 28, 2021.

## II. FACTUAL BACKGROUND

The Petitioner appeals the Respondent's reimbursement for high-tech home health aide services rendered on 15 dates of service from April 16 through April 30, 2021 under procedure code S9122. On May 14, 2021, the Respondent issued an Explanation of Review reducing reimbursement for the dates of service at issue on the basis that "the amount allowed is based on provider charges within the provider's geographic region."

In its appeal request, the Petitioner states that it disagrees with the Respondent's reimbursement of \$5,272.40 for the dates of service at issue. The Petitioner argues that a reimbursement rate of \$32.00 per hour is "fair and reasonable" for the high-tech home health aide services rendered on the dates of service at issue, which total \$6,040.00.

In its reply, the Respondent reaffirmed its position that it reimbursed the Petitioner at a reasonable rate of \$28.00 an hour for the dates of service at issue. The Respondent additionally stated that the Petitioner's reimbursement was "based on their initial rate upon the start of service for the [injured person]."

## 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 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)<sup>1</sup>, 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).

The Director assigned an IRO to review the case file. The IRO reviewer is an American Academy of Professional Coders (AAPC) Certified Professional Coder and has twelve years' experience as a professional coder and auditor. In its July 27, 2021 report, the IRO reviewer opined that based on the

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<sup>1</sup> 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.

documentation, the Respondent's reimbursement of \$26.27 an hour for high tech aide care was not consistent with provider charges in the Petitioner's geographic region for procedure code S9122.

Specifically, the IRO reviewer stated:

The reasonable and customary charges for the services reported and billed by [the Petitioner] for the HCPCS code S9122 is \$30.00 per hour. This means additional reimbursement amount of \$376.60 is recommended.

In support of its recommendation, the IRO reviewer explained that it determined reasonable and customary charges based on the time and place the services were provided, the Fair Health Charge Benchmark Database, as well as surveys of other home health agency providers in proximity to the Petitioner's zip code. The IRO reviewer explained that the additional reimbursement amount of \$376.60 is the difference between the reasonable and customary charges of \$5,649.00 and the Respondent's reimbursement of \$5,272.40 for the dates of service at issue.

Further, the IRO reviewer provided a table of the reimbursement amounts for the dates of service at issue<sup>2</sup>:

Date(s) of Service	Code Billed	Units	Submitted Amount	Approved Amount	Reasonable and Customary Fee for Service
04/16/2021	S9122	12.2	\$392.00	\$341.60	\$366.00
04/17/2021	S9122	12.7	\$408.00	\$355.60	\$381.00
04/18/2021	S9122	12.0	\$384.00	\$336.00	\$360.00
04/19/2021	S9122	12.5	\$400.00	\$350.00	\$375.00
04/20/2021	S9122	12.7	\$408.00	\$355.60	\$381.00
04/21/2021	S9122	12.7	\$408.00	\$355.60	\$381.00
04/22/2021	S9122	12.5	\$400.00	\$350.00	\$375.00
04/23/2021	S9122	12.5	\$400.00	\$350.00	\$375.00
04/24/2021	S9122	13.5	\$432.00	\$378.00	\$405.00
04/25/2021	S9122	13.0	\$416.00	\$364.00	\$390.00
04/26/2021	S9122	12.2	\$392.00	\$341.60	\$366.00
04/27/2021	S9122	12.7	\$408.00	\$355.60	\$381.00
04/28/2021	S9122	12.7	\$408.00	\$355.60	\$381.00
04/29/2021	S9122	12.2	\$392.00	\$341.60	\$366.00
04/30/2021	S9122	12.2	\$392.00	\$341.60	\$366.00
<b>Total</b>			<b>\$6,040.00</b>	<b>\$5,272.40</b>	<b>\$5,649.00</b>

<sup>2</sup> "Submitted Amount" refers to the Petitioner's billed amount to the provider. "Approved Amount" refers to the Respondent's reimbursement amount.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that its reimbursement rate of \$26.27 an hour for high-tech home health aide services was reasonable based on the Petitioner's geographic region for procedure code S9122.


#### IV. ORDER

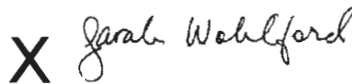
The Director reverses the Respondent's determination dated May 14, 2021. The Petitioner is entitled to total additional payment of \$376.60 and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6).

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



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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford