

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Level Eleven Grand Blanc
Petitioner

File No. 21-1073

v

Citizens Insurance Company of America
Respondent

**Issued and entered
this 22nd day of July 2021
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On June 16, 2021, Level Eleven Grand Blanc (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 determination of Citizens Insurance Company of America (Respondent) that Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations, under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of determination under R 500.64(1) on June 13, 2021. The Petitioner seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on June 16, 2021. Pursuant to R 500.65, the Director 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. Respondent filed a reply to the Petitioner's appeal on June 24, 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 8, 2021, providing a recommendation to the Department on the issues in the appeal.

II. FACTUAL BACKGROUND

The Petitioner appeals the denial of payment for outpatient physical therapy treatments rendered to the injured person on May 13, 2021. These treatments were identified under Current Procedural Terminology (CPT) codes 97112 and 97116, neuromuscular re-education therapy and therapy exercise instruction, respectively. The Petitioner's supporting documentation included a medical record for the date of service at issue which noted the following treatment diagnoses: difficulty in walking, generalized muscle weakness, quadriplegia, C5-C7 incomplete, and other incomplete lesion at C7 level with sequela.

The Petitioner's request for an appeal stated that the treatment provided to the injured person was medically necessary "regarding the injuries sustained in a motor vehicle accident." The Petitioner provided further explanation in its appeal, stating:

As a result of that motor vehicle accident, [the injured person] sustained serious injuries. During his treatment, a licensed physician ordered services which we have been providing. These services are to be provided by a licensed therapist, for the safety and wellbeing of the [injured person] in order for [the injured person] to gain strength, mobility, and quality of life.

In the Respondent's June 13, 2021 determination, the Respondent denied payment and stated that the physical therapy treatments provided on the date of service at issue were not medically necessary. In its reply to the appeal, the Respondent reaffirmed its position and stated the following: "Treatment is not medically necessary as there is no need for 3x/week outpatient PT. Outpatient PT 1x/week for 4 weeks is needed with home exercise program to follow."

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 medical necessity and overutilization of services.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the physical rehabilitation services provided to the injured person on the date of service at issue were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with such medically accepted standards.

The IRO reviewer is a board-certified physician in physical medicine and rehabilitation and is in active practice. The IRO reviewer referenced R 500.61(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, boards, and associations. The IRO reviewer relied on evidence-based scientific exercise guidelines for adults with spinal cord injury and peer-reviewed journal articles on spinal cord injury in support of its recommendation.

In support of its recommendation, the IRO reviewer explained that the injured person has a history of “incomplete cervical quadriplegia due to a spinal cord injury” sustained in 2009, but there was “no report of a new or intervening illness or injury and no documentation of a decline or change in the injured person’s neurological exam by a specialist” in the submitted documentation. The IRO reviewer stated that there was also “no documentation of any new complication or any loss of function to warrant an intensive outpatient therapy intervention for the injured person” for the date of service at issue. Consistent with the IRO reviewer’s findings, the Petitioner did not indicate in its appeal request any reported change occurring in the injured person’s medical history since his previous evaluation on March 13, 2020.

The IRO further stated that the injured person “has the medical equipment necessary to maintain his baseline mobility, such as sliding boards and manual and power wheelchairs” as well as “an accessible home and an accessible van and a bilateral knee-ankle foot orthosis for weight bearing and standing with caregiver assistance using bilateral upper extremity parallel bars.” In addition, the IRO reviewer noted that the injured person has a spouse at home for assistance.

The IRO reviewer opined that “there is no practice guideline that supports the use of PT at issue in this appeal.” The IRO reviewer explained that in physical therapy there is “no specific protocol or modality such as activity-based therapy, robotic training or functional electrical stimulation.”

The IRO reviewer further stated:

There is no current quality evidence that supports that traditional outpatient PT multiple times a week is superior to home based PT or home exercise program with caregivers using assistive devices in chronic and stable spinal cord injury (SCI)...[T]he goal of therapy intervention in this case is to maintain the injured person’s current level of function and prevent long term complications of his chronic SCI.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent’s determination that the treatments provided to the injured person on May 13, 2021, were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determination dated June 13, 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:

 Recoverable Signature

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford