STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

A. Rodnick Chiropractic, P.C.
Petitioner **File No. 21-1074**

v

Progressive Marathon Insurance Company
Respondent

Issued and entered
this 2nd day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 16, 2021, A. Rodnick Chiropractic, P.C. (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 Progressive Marathon Insurance Company (Respondent) that the 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 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 full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on June 23, 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 23, 2021, and the Respondent received a copy of the Petitioner's submitted documents.

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 20, 2021, providing a recommendation to the Department on the issues in this appeal.

II. Factual Background

This appeal concerns the denial of payment by the Respondent for chiropractic treatment rendered on April 13, 2021, under Current Procedural Terminology (CPT) code 23700[1] with modifier 62. This code relates to manipulation under anesthesia (MUA). On May 4, 2021, the Respondent issued an Explanation of Benefits (EOB) to the Petitioner requesting additional documentation from Petitioner.

With its appeal request, the Petitioner submitted supporting documentation demonstrating the following diagnoses: segmental and somatic dysfunction of cervical, thoracic, lumbar, sacral, and pelvic region, adhesive capsulitis of left shoulder, disorder of ligament, abnormal reflex, weakness, and muscle spasms. Based on the Petitioner's documentation, the injured person presented with complaints of aching and stiff neck pain, with radiation to the left elbow, wrist and hand, headaches, upper, mid and low back pain, sacral, bilateral sacroiliac (SI), and left hip pain.

The Petitioner noted that the injured person rated overall pain at 6 on a ten-point pain scale. The Petitioner also noted that the injured person's aggravating factors for increased pain included ice, running, walking, bending, and lifting; relieving factors were heat, massage, and exercise.

The Petitioner's request for an appeal included a statement from the treating chiropractor stating the following:

> The MUA procedures performed on this [injured person] are reasonable and necessary in the normal course of care based on the [injured person's] clinical findings and response to other treatments.

In its denial dated May 4, 2021, the Respondent determined that the information provided by the Petitioner was insufficient for reimbursement. As a basis for its denial, the Respondent stated that its medical reviewer reviewed the documentation and determined that the treatment exceeded the period of care for either utilization or relatedness based on ACOEM Practice Guidelines. In its July 12, 2021 reply, the Respondent further explained, citing MCL 500.3107b(b), that the "procedure is outside the scope of chiropractic, as it existed on January 1, 2009, as such is not reimbursable."

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

[1] The Respondent's bill denial also included CPT codes 22505 and 27198. However, in its reply, the Respondent demonstrated that it had reimbursed the Petitioner for procedure codes 22505 and 27198 on June 17, 2021. The Respondent stated that CPT codes 22505 and 27198 were medically necessary and the procedures were performed within the scope of the Petitioner's practice. Therefore, these procedure codes are no longer at issue in this appeal.

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 inappropriate treatment.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the procedure performed on April 13, 2021 was not medically necessary in accordance with medically accepted standards as defined in R 500.611(i).

The IRO reviewer is board certified in chiropractic medicine and has active medical licenses. 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 several guidelines and peer-reviewed journal articles, including guidelines for the practice and performance of manipulation under anesthesia from the Chiropractic & Manual Therapies.

The IRO reviewer stated that the Petitioner's scope of practice does not support the procedure performed.

> The procedure of 23700 MUA of the shoulder joint is not considered chiropractic standard or the most appropriate practice guideline condition by a chiropractor, according to plan language. The procedure 23700 is not within generally accepted practice guidelines, and not a standard treatment among professional medical societies, board, and associations. Based on Michigan 500.3107(b), the procedure is not reimbursable when performed by a chiropractor because it is not part of the chiropractic scope of practice as of January 1, 2009.

Further, the IRO reviewer noted that the Petitioner incorrectly billed 23700 with a 62-modifier based on generally accepted billing and coding practices. The IRO reviewer opined that a 62 modifier should only be used when:

> The individual skills of two surgeons are required to perform surgery on the same patient during the same operative session.
>
> ...The modifier was used incorrectly because the provider is not a surgeon, not the attending anesthesiologist. This modifying code is not an appropriate adder for the procedure performed.

The IRO reviewer further noted the documentation submitted by the Petitioner did not include critical aspects to determine medical necessity; therefore, medical necessity of the MUA could not be established.

> The submitted documents do not include the [injured person's] initial history and exam, treatment type and plan, chart notes for all dates of service (DOS), including subjective complaint and objective findings for each DOS and [injured person's] response to treatment. This information is critical in determining the medical necessity of any treatment.
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> ...Also, the [diagnosis] pointers for the procedure 23700 were listed on the EOB as M24.28, 853.1, S13.OXXA and M51.44, none of which reflect a diagnosis pertaining to the left shoulder.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the treatment provided to the injured person on April 13, 2021, was 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 May 5, 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