

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

**In the matter of:**

**Lewis Smith, Ph.D., P.C.**  
**Petitioner**

**File No. 21-1079**

**v**

**Home-Owners Insurance Company**  
**Respondent**

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**Issued and entered**  
**this 16<sup>th</sup> day of August 2021**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 18, 2021, Lewis Smith, Ph.D., 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 Home-Owners Insurance Company (Respondent) that the Petitioner rendered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on June 16, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on July 1, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on July 1, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. Respondent filed a reply to the Petitioner's appeal on July 21, 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 11, 2021.

**II. FACTUAL BACKGROUND**

This appeal concerns the denial of payment for 60 minutes of psychotherapy treatments provided to

the injured person by the Petitioner under current procedural terminology CPT code 90837 on May 24 and 26, 2021. On June 16, 2021, the Respondent issued a determination denying the psychotherapy treatments on the basis that documentation did not support the medical necessity for the treatment.

In its appeal request, the Petitioner argued that the Respondent's determination should be overturned. In a letter included with its appeal request, the Petitioner stated that the injured person has "documented diagnosed conditions with suicidal ideology during the pandemic." The Petitioner's supporting documentation indicated that the injured person had sustained a closed head injury and had a major neurocognitive disorder pertaining to memory, attention, and executive function resulting in posttraumatic stress disorder and severe major depression with suicidal thoughts.

In its reply, the Respondent stated that "no additional information was provided to dispute the initial Utilization Review determination of necessity." The Respondent explained that the original determination issued should stand on the basis that "the medical documentation does not support the necessity for" the services rendered "per the guidelines."

### 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.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the psychotherapy treatments provided to the injured person on the dates of service at issue were medically necessary, based on medically accepted standards as defined by R 500.61(i).

The IRO reviewer holds a degree in the field of psychology and is a licensed psychologist. 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, board, and associations. The IRO reviewer relied in part on guidance from the American Psychiatric Association and *Practice Guideline for the Assessment and Treatment of Patients with Suicidal Behaviors*.

In support of its recommendation, the IRO reviewer explained that the injured person had sustained a closed head injury due to a motor vehicle accident on October 9, 2020, with a diagnosis of major neurocognitive disorder affecting memory, attention, and executive functions. The IRO reviewer stated that the

submitted treatment notes indicated that the injured person had suicidal ideations and that they remained unchanged with minimal progress on the dates of service at issue.

The IRO reviewer opined that the psychotherapy rendered on the dates of service at issue was medically necessary and within the standard of care for injured people actively experiencing suicidal ideation. Specifically, the IRO reviewer noted:

Psychotherapies and other psychosocial interventions play an important role in the treatment of individuals with suicidal thoughts and behaviors. ... A substantial body of evidence supports the efficacy of psychotherapy in the treatment of specific disorders, such as nonpsychotic major depressive disorder and borderline personality disorder, which are associated with increased suicide risk. ... Therefore, psychotherapies such as interpersonal psychotherapy and cognitive behavior therapy may be considered appropriate treatments for suicidal behavior, particularly when it occurs in the context of depression.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that the psychotherapy treatments provided to the injured person on May 24 and 26, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

#### IV. ORDER


The Director reverses the Respondent's determination dated June 16, 2021.

The Petitioner is entitled to payment in the full amount billed 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