STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Todd Kleinstein
Petitioner

File No. 21-1081

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 20th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. Procedural Background

On June 18, 2021, Todd Kleinstein (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 concerns the determination of Citizens Insurance Company of the Midwest (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 Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on April 12 and 13, 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 6, 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 6, 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 23, 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 18, 2021.

II. Factual Background

This appeal concerns the denial of payment for chiropractic treatments rendered by the Petitioner to the injured person on March 18 and 25, 2021 under procedure codes 98941, 97012, 97112, and 97530, representing manipulative treatment, mechanical traction/spinalator, neuromuscular re-education, and therapeutic activities, respectively. On April 12 and 13, 2021, the Respondent issued determinations denying the chiropractic treatments on the basis that the submitted documentation did not substantiate medical necessity.

With its appeal request, the Petitioner argued that the Respondent's denial should be reversed. In a letter included in its request, the Petitioner stated that the injured person has a C4-C5 broad based disc herniation impinging the ventral spinal cord, a C5-C6 disc herniation, a C6-C7 disc herniation and a T1-T2 posterior disc herniation. The Petitioner also stated that injured person's lumbar spine had "an L4-L5 disc herniation with a dorsal annular tear" and an "AL5S1 disc herniation with a dorsal annular tear." The Petitioner's letter further stated, "these injuries are solely from [the injured person]'s automobile accident," and the treatment allows the injured person "to get through her day at work without drugs or surgery."

In its reply, the Respondent stated that the treatment was not medically necessary. The Respondent stated that submitted documentation detailed "continual complaints and pain levels (8/10) following multiple treatments." Specifically, the Respondent noted:

> The documentation does not substantiate the procedure(s) 98941, 97012, 97112, and 97530 as reasonable or necessary. Patients with low back or neck pain resulting from a motor vehicle should show statistically significant improvements in pain level, function, and medication use.

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 treatments provided to the injured person under procedure codes 98941, 97012, 97112, and 97530 on March 18 and 25, 2021 were not medically necessary in accordance with medically accepted standards as defined by R 500.61.

The IRO reviewer is a licensed doctor in the field of chiropractic care with an active private 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, board, and associations. The IRO reviewer relied on American College of Occupational and Environment Medicine (ACOEM) Occupational Medicine Practice Guidelines and Council for Chiropractic Guidelines and Practice Parameters (CCGPP).

The IRO reviewer stated that the injured person was treated for complaints of headache with pain located at the neck and back, with arm and leg pain on the dates of service at issue. The IRO reviewer explained that there was no documentation supporting the Petitioner's reported cervical and lumbar disc herniation diagnosis, the injured person's prior care history, or information regarding the injured person's motor vehicle accident. The IRO reviewer also noted that the documentation provided did not identify the Petitioner's first date of service with the injured person.

> As such, causal relationship to the accident dated 5/26/2020, ten months earlier, cannot be made. Beyond this, at ten months post-motor vehicle accident (MVA), the [Visual Analog Scale] is 8/10 on both visits, with no change in symptoms or findings, showing no objective evidence of clinical improvement. The notes also lacked details about ranges of motion or full details of the rehabilitation program. The notes reviewed did not support a finding of medical necessity for the treatment under review.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determinations that the treatments provided to the injured person under procedure codes 98941, 97012, 97112, and 97530 on March 18 and 25, 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 determinations dated April 12 and 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