

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

In the matter of:

Elliot Wagenheim, M.D., P.C.
Petitioner

File No. 21-1082

v

Citizens Insurance Company of the Midwest
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On June 21, 2021, Elliot Wagenheim, M.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 Citizens Insurance Company of the Midwest (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 the Respondent's determination under R 500.64(1) on May 11, 2021. The Petitioner seeks reimbursement in the full amount 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 Respondent filed a reply to the Petitioner's appeal on June 25, 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 7, 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 to the Petitioner for psychotherapy treatments rendered on February 2, 2021. The treatment was identified under the Current Procedural Terminology (CPT) code 90833 as an add-on service with other services provided. The Petitioner's supporting documentation included a medical record for the date of service at issue which noted the following treatment diagnoses: traumatic brain injury with loss of consciousness of unspecified duration; dementia; mixed disturbance of emotions and conduct; insomnia, unspecified; obesity; other problems related to psychosocial circumstances; and mood disorder due to known psychological condition with mixed features.

With its appeal request, the Petitioner stated that the treatment provided was medically necessary based upon the injured person's clinical presentation. The Petitioner provided further explanation in its appeal, stating:

Due to the [injured person's] MVA related TBI the duration of treatment will be life-long and the eclectic supportive, cathartic and cognitive restructuring psychotherapy provided is an important adjunct to his pharmacotherapy. The combination of pharmaco- and psychotherapy, has been proven in numerous studies to be more effective than either one or the other alone.

In its May 11, 2021 determination, the Respondent denied payment for CPT code 90833 and requested additional documentation from the Petitioner regarding the necessity or indication for the treatment. As to the basis for their request, the Respondent noted that "treatment does not appear to address symptoms of insomnia or adjustment disorder. No clear cognitive behavioral or evidence based treatment is provided to the claimant within the session offered by the clinician. Without such documentation, billing for psychotherapy is not approved."

The Petitioner submitted a June 18, 2021 letter to the Respondent addressing the insurer's request for documentation and reasoning for denial of payment. The Petitioner's letter was dated more than 30 days after the determination letter was issued, as required by R 500.63(3). In its letter, the Petitioner argued that the psychotherapy provided to the injured person involved "cognitively restructuring his poor judgment/unrealistic expectations regarding relationships and also addressed the social and physical health benefits of improved personal hygiene, which has suffered due to his MVA related TBI [traumatic brain injury], in addition to emotional support and catharsis."

In its reply to the appeal, the Respondent noted that the Petitioner's was "incorrect that catharsis or supportive therapies are evidence based." The Respondent based its assertion by reference of over 80 evidence-based treatments described by the Society of Clinical Psychology that did not include catharsis or supportive therapies. The Respondent went on to state that the Petitioner's summary notes for the date of service at issue did not provide "clear documentation of evidence of the intervention or its utility" as it

relates to specific treatment goals.

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 treatment provided to the injured person on the date of service at issue was not medically necessary in accordance with medically accepted standards as defined by R 500.61(i).

The IRO reviewer is a board-certified psychiatrist. 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 Psychiatric Association (APA) practice guidelines for the treatment of patients with Alzheimer's disease and other dementias and for the treatment of patients with major depressive disorder. The IRO reviewer also relied on the APA's Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM-5).

The IRO reviewer stated that the Petitioner's documentation showed that the injured person had "no anxiety, mood, attitude, or behavior problems over the previous two months," his speech was "gravell[ly], dysarthric, and mumbling," and his memory, concentration, thought processes, and associations were normal. The IRO reviewer opined:

Given his level of functioning and mental status examination, as well as formal diagnoses of traumatic brain injury, dementia, mixed disturbance of emotion and conduct, insomnia, obesity, and mood disorder due to known psychological conditions with mixed features, it did not appear the [injured person] met medical necessity criteria for continued psychotherapy as established by the referenced evidence-based guidelines.

The IRO reviewer explained that CPT code 90833 was an appropriate add-on to the primary procedure code that was billed for an evaluation on the date of service at issue to reflect the psychotherapy provided. However, the IRO reviewer opined the following regarding the medical necessity of this treatment:

[The] supportive, cathartic, cognitive behavioral therapies as provided on February 2, 2021 were not appropriate evidence-based treatments for the [injured person's] diagnoses. These treatment modalities are not included/recommended by the referenced evidence-based guidelines as proven to produce clinical improvement for the claimant's diagnoses.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the psychotherapy treatment provided to the injured person on February 2, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

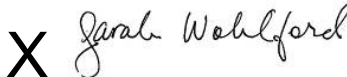
IV. ORDER

The Director upholds the Respondent's determination dated May 11, 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
Special Deputy Director
Signed by: Sarah Wohlford