

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
Petitioner

File No. 21-1085

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 27th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 21, 2021, Elliot Wagenheim (Petitioner) filed with 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 appeal concerns a determination from Citizens Insurance Company of the Midwest (Respondent) that the Petitioner overutilized or otherwise rendered or ordered 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 May 17, 2021. The Petitioner now seeks payment in the full amount billed for the date of service at issue.

The Department accepted the request for 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 July 2, 2021. The Department provided a written notice of extension to both parties on July 29, 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 2, 2021.

II. FACTUAL BACKGROUND

The Petitioner appeals the denial of payment for individual psychotherapy treatment rendered on April 19, 2021, under procedure code 90836.¹ On May 19, 2021, the Respondent issued a determination letter denying payment for the psychotherapy treatment. The Respondent requested a written explanation in the form of additional documentation, pursuant to R 500.63. More specifically, the Respondent requested the “physician exam dated 4/19/2021.” The Petitioner did not respond to the Respondent’s request for explanation.

In its appeal request, the Petitioner provided a clinical note to support its argument of medical necessity. The clinical note identifies the injured person’s diagnosis as diffuse traumatic brain injury with loss of consciousness of unspecified duration following an October 1998 motor vehicle accident. The injured person reported a chief complaint of “ongoing emotional and behavioral problems” post motor vehicle accident.

In its reply, the Respondent reaffirmed its position that the psychotherapy treatment rendered under procedure code 90836 “was determined to be not medically necessary.” The Respondent went on to state that “no new information was provided [with the Petitioner’s appeal request] to alter the physician’s opinion.”

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 treatment provided on April 19, 2021, was medically necessary based on medically accepted standards as defined by R 500.61(i).

The IRO reviewer is board certified in psychiatry. In its report, the IRO reviewer referenced R 500.61(i), 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

¹ The Respondent’s bill denial also included procedure code 99214. However, in its reply the Respondent stated that procedure code 99214 was medically necessary; and provided a determination letter approving the treatment. Therefore, this procedure code is no longer at issue in this appeal.

medical societies, board, and associations. The IRO reviewer relied in part on clinical practice guidelines for management of concussion/mild traumatic brain injury.

The IRO reviewer noted that the injured person was diagnosed with a diffuse traumatic brain injury with ongoing emotional and behavioral problems. The IRO reviewer explained that the injured person's had remote and poor memory and auditory hallucinations noted on the date of service at issue. The IRO reviewer opined:

[C]ognitive behavioral therapy or individual psychotherapy is the preferred therapeutic approach for treating behavioral and emotional disturbances. Therefore, the [psychotherapy] treatment was the most appropriate treatment that could be provided to the [injured person] per medically accepted standards.

The IRO reviewer noted that the injured person received the psychotherapy treatment via telemedicine. The IRO reviewer additionally noted that the time spent during the psychotherapy visit consisted of an examination, medication management, and therapy with a visit time of 38 minutes.

Based on the submitted documentation, the IRO reviewer noted that:

As per CPT coding - 90836 - Use add-on code for Individual psychotherapy, insight oriented, behavior modifying and/or supportive, 45 minutes with the patient and/or family member (time range 38-52 minutes) when performed with an evaluation and management service. Individual psychotherapy, insight oriented, behavior modifying and/or supportive. Based on the note provided, the treatment provided for procedure code 90836 was medically necessary and it is acceptable to bill for 90836 for the treatment rendered.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that the psychotherapy treatment provided to the injured person on April 19, 2021, was 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 May 17, 2021.

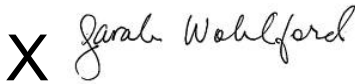
The Petitioner is entitled to payment in the full amount billed and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 7 days of this order, submit proof that it has complied with this order. This order is subject to judicial 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


X

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford