

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

In the matter of:

Lighthouse Outpatient Center
Petitioner

File No. 21-1097

v

Allstate Property and Casualty Insurance Company
Respondent

Issued and entered
this 12th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 29, 2021, Lighthouse Outpatient Center (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 Allstate Property and Casualty Insurance Company (Respondent) that the Petitioner's cost of treatment, products, services, or accommodations was inappropriate 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 amount of \$255.50, which is the difference in payments for the dates of service at issue.

The Department accepted the request for an appeal on July 12, 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 12, 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 15, 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 10, 2021.

II. FACTUAL BACKGROUND

This appeal concerns reduced reimbursement for treatments rendered by the Petitioner under procedure code 90832 for seven dates of service: February 2, 11 and 24, 2021, and March 3, 10, 17, and 24, 2021. The Respondent issued two *Explanation of Medical Bill Payment* letters to the Petitioner on March 31, 2021 and May 7, 2021, reducing reimbursement on the basis that “the amount allowed was reviewed using the [FAIR Health] Charge Benchmark Database.”

In its appeal request, the Petitioner argues that it is entitled to full payment for the dates of service at issue. The Petitioner stated that it disagreed with the Respondent’s reduced reimbursement based on the FAIR Health Charge Benchmark Database. In a letter included with its appeal request, the Petitioner explained that it considers it “rates reasonable based on what is needed to cover [its] cost.”

In its reply, the Respondent stated that it utilizes the Fair Health Charge Benchmark Database as a standard for reasonable and customary payments. Further, the Respondent stated that it reimbursed the Petitioner “pursuant to the Fair Health allowed amounts.”

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 inappropriate cost.

Under Chapter 31 of the Code, a provider may charge a reasonable amount for treatment, training, products, services, or accommodations; however, an insurer is only required to reimburse “reasonable charges” for services. See MCL 500.3157(1)¹, MCL 500.3107(1)(a). Under the Code, “the ‘customary charge’ limitation in § 3157 and the ‘reasonableness’ language in § 3107 constitute separate and distinct limitations on the amount health-care providers may charge and what insurers must pay with respect to victims of automobile accidents who are covered by no-fault insurance.” *Advocacy Org for Patients & Providers v Auto Club Ins Ass’n*, 257 Mich App 365 at 376, 670 NW2d 569 (2003), aff’d 472 Mich 91, 693 NW2d 368 (2005).

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the Respondent’s reimbursement amount for procedure code

¹ Section 3157 was amended by PA 21 of 2019; however, the relevant language in what is now Section 3157(1) was substantively unchanged and is therefore applicable to the dates of service in this appeal.

90832 on the dates of service at issue was more than the 95th percentile of the FAIR Health Charge Benchmark Database, and therefore was not inappropriate.

The IRO reviewers consisted of a coding consultant and a licensed attorney (IRO reviewer). The IRO reviewer's report relied on data and standards identified in FAIR Health.

In its report, the IRO reviewer explained that the Petitioner charged \$131.50 per unit for procedure code 90832 on the dates of service at issue, and that the Respondent issued payment of \$95.00 per unit for procedure code 90832. The IRO reviewer opined that based on the FAIR Health Charge Benchmark Database, the range of allowable reimbursement for code 90832 is between the 50th and 95th percentile, \$49.00 to \$52.00 respectively. The IRO reviewer concluded that the Respondent's payment for the dates of service at issue was appropriate as it was higher than the FAIR Health Charge Benchmark Database.

In support of its recommendation, the IRO reviewer provided a table outlining the allowed reimbursement of procedure code 90832 based on the FAIR Health Charge Benchmark Database:

50th	60th	70th	75th	80th	85th	90th	95th
\$49	\$50	\$50	\$51	\$51	\$51	\$51	\$52

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the reimbursement procedure code 90832 was not inappropriate under the Code.


IV. ORDER

The Director upholds the Respondent's determinations dated March 31 and May 7, 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