STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

River of Life Chiropractic & Wellness
Petitioner **File No. 21-1102**

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 24th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. Procedural Background

On July 2, 2021, River of Life Chiropractic & Wellness (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 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 written notices of the Respondent's determination under R 500.64(1) on April 15, 19, and 26, 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 14, 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 14, 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 28, 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 the denial of payment for treatments rendered over ten dates of service from March 22-29, 2021, and on April 5 and 12, 2021.

With its appeal request, the Petitioner submitted a statement indicating that the Petitioner's treatment plan for the injured person was "a comprehensive approach" which included chiropractic spinal adjustments, massage therapy, manual therapy, deep tissue laser therapy, and mechanical traction. These treatments were billed using the following Current Procedural Terminology codes: 98941, 97124, 97140, 97139 and 97012, respectively. The Petitioner submitted medical documentation which indicated diagnoses of segmental and somatic dysfunctions of the spine, cervicalgia, and right shoulder pain.

The Petitioner stated that, because of the treatments rendered, the injured person's "range of motion in her right shoulder dramatically improved" and that she "returned to full range of motion with forward flexion and about 90% improvement on lateral flexion." The Petitioner noted that the injured person's ability to perform activities of daily living had improved with treatment, but after treatment stopped, she has been experiencing setbacks with increased shoulder and back pain and decreased mobility.

In its request for appeal, the Petitioner further stated:

> Before treatment [the injured person] could forward flex 145 degrees with pain and laterally flex 55 degrees with pain; after treatment she was able to forward flex 180 degrees with no pain and laterally flex 175 degrees with slight pain during the arc. [The injured person] also stated that her low, mid, and upper back were much more mobile and less painful in her day-to-day activities, allowing her to manage her days much more freely.

On April 15, 2021, the Respondent issued a determination for treatment rendered from March 22 to 29, 2021, concluding that the treatment was not medically necessary. The Respondent stated that the injured person was "four years post motor vehicle accident and mechanism of injury [was] not provided" to support treatment as reasonable or necessary. Specifically, the Respondent stated:

> Patients with low back or neck pain resulting from a motor vehicle should show statistically significant improvements in pain level, function and medication use. The current evidence suggests that exercise alone or in combination with education is effective for preventing low back pain.

The remaining determination letters dated April 19 and 26, 2021 restated the above reasoning in support of its position that the treatments rendered on April 5 and 12, 2021, respectively, were also not medically necessary. The Respondent's latter determination letter added that the submitted documentation did not substantiate the chiropractic treatments rendered as generally accepted medical standards.

In its reply, the Respondent stated it denied reimbursement for the chiropractic treatment codes 98941, 97012, 97124, 97140, and 97139 as not meeting standard professional treatment protocols and reaffirmed that the documentation did not substantiate the treatments as reasonable or necessary.

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 and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue, and the treatments were overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing chiropractor and experienced coding consultant. 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 current Official Disability Guidelines regarding the neck and upper back conditions.

The IRO reviewer stated that the Petitioner's supporting medical documentation included 6 treatment notes dated between September 22, 2020 and March 22, 2021, prior to the dates of service at issue, and noted that these records indicated continued improvements in the injured person's neck, back, and right shoulder. The IRO reviewer explained that the injured person complained of right upper and mid back pain at 5 out of 10 on the pain scale on September 17, 2020. The IRO reviewer further noted that in December 2020, after treatment was initiated, the injured person 's neck was "much improved and feeling better" and that her "right shoulder pain was 1 out of 10" on the pain scale. The IRO reviewer also noted similar statements in medical records from February and March 2021, including 1 out of 10 pain levels in the right shoulder, reports that the injured person's neck was "improved and not bothering her much," and that her cervical range of motion remained the same through March 22, 2021.

The IRO reviewer opined that, based on Official Disability Guidelines, "additional quantifiable functional improvement is necessary" for treatment to be considered medically necessary:

> In order for additional treatment to be considered appropriate, quantifiable functional improvement must be documented. There was improvement following the initial evaluation of 9/17/20, however, by 12/16/20 the injured person's

condition appears to have plateaued. Beginning 12/31/20 through 3/22/21, the treatment notes indicated identical findings, suggesting that the injured person's complaints had plateaued.

The IRO reviewer stated that "in the absence of improvement from 12/16/20 through 3/22/21, the treatment beginning 3/22/21 through 4/12/21 was not medically necessary." The IRO further stated that the treatments were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i).

Regarding the appropriateness of procedure codes utilized by the Petitioner for the dates of service at issue, the IRO reviewer explained that codes 97140 and 97124 "should not be billed on the same date of service by the same provider with or without a modifier" and that "code 97140 needs a bypass modifier when used in conjunction with codes 97012 and 98941." The IRO reviewer noted no modifier was attached to the CPT codes that were billed for the dates of service at issue. The IRO reviewer concluded that the procedure codes billed for the treatments on the dates of service at issue were not in accordance with generally accepted billing and coding standards.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determinations that the treatments provided to the injured person on March 22 through 29, 2021 and April 5 and 12, 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 15, 19, and 26, 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