

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

In the matter of:

NeuroRestorative Michigan
Petitioner

File No. 21-1105

v

Citizens Insurance Company of America
Respondent

Issued and entered
this 30th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 8, 2021, NeuroRestorative Michigan (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 an appeal concerns the determination of Citizens Insurance Company of America (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 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 full amount it billed 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 August 2, 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 11, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered over ten dates of service occurring on April 2, 5, 6, 9, 16, 20, 23, 26, 27, and 30, 2021. The Current Procedural Terminology (CPT) codes at issue are 97110, 97112, 97116, and 97750, which are described as therapeutic exercise, neuromuscular reeducation, exercise instruction, and physical performance evaluation, respectively.

With its appeal request, the Petitioner submitted medical records for the dates of service at issue, including a letter in support of the treatment provided from the treating therapist. In its letter, the Petitioner described the therapy treatments provided to the injured person from February 2009 through July 2011, and explained that the injured person was discharged in 2011 after attaining goals, and then returned to therapy in 2016 after experiencing a "significant decline in function." The letter explained that the injured person was "still having major functional deficits though, which inhibit his quality of life and function" and that the Petitioner was addressing these deficits with the injured person to improve his function and independence.

The Petitioner stated:

Due to [the injured person's] severe injuries secondary to [motor vehicle accident], continued PT services are indicated to continue making improvements with mobility and to also reduce regression to a further immobile state. [The injured person] is in need of consistent skilled PT to improve his strength, flexibility and balance to maintain and even gain further function and quality of life.

The Petitioner's documentation also included a prescription for physical and occupational therapy dated February 15, 2021 from a physical medicine and rehabilitation treating physician for treatment of "spastic quadriplegia secondary to TBI." The Petitioner submitted a medical record from June 7, 2021, and a letter dated June 21, 2021 from the same treating physician, indicating that the injured person was receiving treatment from this provider since 2010 in relation to a traumatic brain injury with "severe cognitive and motor deficits including generalized spasticity and decreased motor control, more prominent on the left than on the right." The treating physician's documentation stated that the injured person's condition has gradually deteriorated and that "ongoing formal physical therapy services are medically necessary to maintain/improve his overall functional status."

The Respondent requested a written explanation on May 17, 2021, in which it requested additional documentation.

In its reply, the Respondent reaffirmed its denial of the treatments on the dates of service at issue as not medically necessary. The Respondent further stated in its reply that the injured person "has reached maximum medical improvement since [the motor vehicle accident] occurred 22 years ago."

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, the physical therapy treatments provided on the dates of service at issue were medically necessary and were not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a physical medicine and rehabilitation physician in active practice. 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 medical societies, board, and associations. The IRO reviewer relied on The American Board of Physical Medicine and Rehabilitation (ABPMR) guidelines and evidence-based medical literature regarding chronic moderate to severe traumatic brain injury.

The IRO reviewer opined that, based on the ABPMR, which it defined as the governing body in the field of physical medicine and rehabilitation, "the current clinical guidelines for chronic severe traumatic brain injury (TBI) management is inclusive of all three disciplines of therapy, as needs arise." The IRO reviewer explained that "if not managed regularly, spasticity, functionality, mobility, independence, and cognition deteriorate over time" in individuals with in severe chronic TBI."

The IRO reviewer explained:

These patients, as in [the injured person's] clinical scenario, need lifelong care, which includes therapy services. The nature of spasticity is that it will get worse over time if not managed appropriately. Management includes anti-spasticity medications orally by mouth, injections such as botulinum toxin to targeted muscle groups, physical and occupational therapy services regularly that will most likely be done for the rest of the injured person's life.

The IRO reviewer further stated that the physical therapy performed on the dates of service at issue were not overutilized in frequency or duration. Specifically, the IRO reviewer stated:

In a TBI, in which significant cognitive and motor deficits occur, it is likely that therapy services, of all three disciplines, will be required for the rest of the injured

person's life, as in the [injured person's] scenario. As functionality decreases, and thus independence, dependency on caregivers or institutions increases.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that the treatments provided to the injured person on April 2, 5, 6, 9, 16, 20, 23, 26, 27, and 30, 2021 were not medically necessary and were overutilized in frequency or duration in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

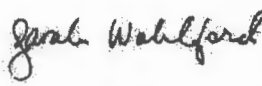
The Director reverses the Respondent's determination dated June 16, 2021.

The Petitioner is entitled to payment in the amount of \$3,208.00, 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