

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

In the matter of:

Innovative Rehabilitation Systems, Inc.
Petitioner

File No. 21-1116

v

Hanover Insurance Group
Respondent

Issued and entered
this 10th day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 9, 2021, Innovative Rehabilitation Systems, Inc. (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 Hanover Insurance Group (Respondent) that the 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 written notices of the Respondent's determination under R 500.64(1) on April 26 and 29, 2021 and May 18, and 27, 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 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 July 23, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents.

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 September 7, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for psychotherapy treatments provided to the injured person on March 31, 2021; April 7, 21, and 28, 2021; and May 12 and 14, 2021. On April 26 and 29, 2021 and May 18 and 27, 2021, the Respondent issued written notices of its determination to the Petitioner, denying the psychotherapy treatments on the basis that medical necessity was not supported by the documentation. In its determination, the Respondent stated that a clear treatment plan, goals, method, measurement of efficacy, and duration are needed to justify the necessity of continued psychotherapy treatments. Additionally, the Respondent stated that treatments should be utilizing evidence-based techniques.

With its appeal request, the Petitioner provided clinical notes for the dates of service at issue, which state the injured person's diagnoses as post-traumatic stress disorder (PTSD) and diffuse traumatic brain injury with loss of consciousness following a motor vehicle accident on December 28, 2019. In a letter included in its appeal request, the Petitioner states that the injured person's treatment goals included identifying and processing symptoms of depression, anxiety, and PTSD related to the December 2019 motor vehicle accident, processing related thoughts and memories, and developing and utilizing healthy coping skills to assist in the management of symptoms. The Petitioner argues that the injured person continues to require ongoing psychotherapy treatments to manage symptoms of depression, anxiety, and PTSD related to the motor vehicle accident.

The Respondent did not provide the Department with a reply to Petitioner's appeal or other documentation in support of its determinations.

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 treatments provided to the injured person on the dates of service at issue were medically necessary in accordance with medically accepted standards.

The IRO reviewer holds an active psychology license. 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 Psychological Association clinical practice guidelines.

The IRO reviewer explained that American Psychological Association's clinical practice guidelines for treatment of PTSD include psychotherapies such as cognitive behavioral therapy, cognitive processing therapy, cognitive therapy, and prolonged exposure therapy. The IRO reviewer opined, based on the documentation, that the psychotherapy treatments provided to the injured person on the dates of service at issue were consistent with evidence-based guidelines for PTSD.

Based on the provided documentation, the IRO reviewer opined that the Petitioner's use of psychoeducation, positive self-statements, and working with the injured person on managing daily routines are treatment goals for the injured person. Additionally, the IRO reviewer opined that the injured person remained symptomatic with PTSD, anxiety, and depression symptoms, and had not returned to the baseline.

In support of its opinion, the IRO reviewer stated:

It is not uncommon for PTSD symptoms and treatment to last for up to 18 months after the initial event. Therapy and symptoms were still related to the incident on 12/28/2019 per treatment records. As such, the psychotherapy sessions provided on [the dates of service at issue] were medically necessary in this case.

Further, the IRO reviewer noted that treatment notes indicated that the injured person made some improvements from the psychotherapy treatment techniques. The IRO reviewer opined that ongoing therapy was necessary on the dates of service at issue to address the injured person's symptoms related to the motor vehicle accident.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that the psychotherapy treatments provided to the injured person on March 31, 2021; April 7, 21, and 28, 2021; and May 12, and 14, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses the Respondent's determinations dated April 26 and 29, 2021 and May 18, and 27, 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 21 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*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford