

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

In the matter of:

**Lupo Chiropractic Center PC**  
**Petitioner**

**File No. 21-1138**

**v**

**Citizens Insurance Company of the Midwest**  
**Respondent**

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**Issued and entered**  
**this 14<sup>th</sup> day of September 2021**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On July 21, 2021, Lupo Chiropractic Center PC (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 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 May 5 and 11, 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 27, 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 27, 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 17, 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 on August 25, 2021.

**II. FACTUAL BACKGROUND**

This appeal concerns the denial of payment for chiropractic treatments rendered on February 4, 11, 15, 17, 23 and 25, 2021. The Current Procedural Terminology (CPT) codes at issues are 98942, 97012, and 97110, which are described as chiropractic manipulation, mechanical traction, and therapeutic exercise.

With its appeal request, the Petitioner submitted a statement in which it argued that the Respondent based its denial on a May 1994 journal article which “supports continued conservative chiropractic treatment for injuries sustained in motor vehicle accidents” such as the treatments provided to the injured person. The Petitioner also noted in its statement that a second article referenced by the Respondent in relation to its denial “narrows its scope to only low back pain and doesn’t discuss injury/trauma treatment for spine pain or connective tissue injuries ... [and] focuses on home self-care preventative measures.” Further, the Petitioner stated that the literature referenced by the Respondent does not mention “motor vehicle collision injuries and what treatments would be considered medically necessary to return the [injured person] to pre-injury status.”

In its reply, the Respondent reaffirmed its determinations and stated that the treatments at issue were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i).

### 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 involves a dispute regarding inappropriate treatment 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 licensed chiropractor with an active practice. The IRO reviewer is also a clinical researcher and is a member of several national chiropractic and medical associations. 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 clinical guidelines from the American Chiropractic Association and on literature from the *Journal of Manipulative and Physiological Therapeutics* regarding best practices for chiropractic management of patients with neck and low back pain.

The IRO reviewer opined that the submitted documentation was insufficient to support the injured person’s purported diagnosis of a whiplash injury from a motor vehicle accident. The IRO reviewer further noted that the CPT codes did not indicate that an exam or reassessment was conducted during the month of February 2021. The IRO reviewer explained that the treatment goals for the injured person were unclear, based on the submitted documentation. Specifically, the IRO stated:

Based on the information provided, the treatments provided to [the injured person] on [the dates of service at issue] did not meet accepted standards, as the provider did not

perform, provide, or bill for an examination...despite the provider's claims that [the injured person] sustained a whiplash injury, there is no documentation to support this. Documentation is required by a chiropractor, per medical standards and clinical practice guidelines, in order to accurately establish the proper course of treatment for a specific condition and to outline a treatment plan.

The IRO reviewer further stated that "to provide appropriate treatment for a patient, and to properly establish a treatment plan, an evaluation and diagnosis are medically necessary." The IRO reviewer further opined that the chiropractic treatments provided on the dates of service at issue were overutilized in frequency or duration as "there is no confirmed diagnosis establishing medical necessity."

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the chiropractic treatments provided to the injured person on February 4, 11, 15, 17, 23 and 25, 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).

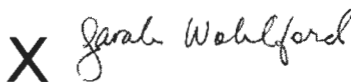
#### IV. ORDER

The Director upholds the Respondent's determinations dated May 5 and 11, 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



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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford