

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

In the matter of:

Home and Community Recreation
Petitioner

File No. 21-1162

v

Citizens Insurance Company of America
Respondent

Issued and entered
this 27th day of August 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 27, 2021, Home and Community Recreation Therapy (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, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on June 28, 2021. The Petitioner now seeks reimbursement in the full amount billed. The Department accepted the request for an appeal on August 4, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on August 4, 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 6, 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 20, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for therapy and training services rendered on June 2 and June 7, 2021, under Current Procedural Terminology (CPT) codes 97537, 97129, and add on code 97130.

The CPT codes are described as community and work reintegration training and therapeutic interventions focused on cognitive function.

With its appeal request, the Petitioner submitted supporting documentation demonstrating the following diagnoses: personality change due to known psychological condition and other specified intracranial injury with loss of consciousness. Based on the Petitioner's documentation, the injured person presented on June 2, 2021, with reported problems to attention to task/concentration, memory, problem solving, poor judgement, and lacking in appropriate social behavior. The Petitioner's documentation also noted physical endurance deficiencies, fine and gross motor skill issues, weight gain, and bilateral integration.

The Petitioner's request for an appeal included a statement from the injured person's treating therapeutic recreational specialist stating the following:

[Injured person] had a Motor Vehicle Accident (MVA) on November 12, 1995. [Injured person] experienced a Traumatic Brain Injury (TBI) as a result of this MVA. Despite [injured persons] considerable progress over many years, [injured person] continues to have multiple deficits and suffers from a chronic disability. [Injured person's] TBI presents with severe, ongoing, and complex deficits. Recreation Therapy treatment is ordered by [injured person's] physician as a skilled intervention to treatment deficits resulting from her MVA. This intervention specifically targets the deficits listed above through direct focus on [injured person's] problem areas within a functional environment.

In the Respondent's determination dated June 28, 2021; The Respondent determined treatment was not medically necessary and was consistent with ODG guidelines. In it August 4, 2021 reply, the Respondent further explained:

Charges are denied per review of medical documentation and determined treatment is not medically necessary. Physician opinion is not changed as the injury was over 25 years ago and [injured person] has reached maximum benefit from formal therapeutic treatment. There is no documentation of new/additional injury or cause for acute exacerbation requiring treatment.

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 treatment rendered June 2 and 7, 2021 were medically necessary in accordance with medically accepted standards as defined by R 500.61(i).

The IRO reviewer is board certified in the clinical practice of physical medicine and rehabilitation. The IRO reviewer has an active practice of physical medicine and rehabilitation. 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 guidelines provided by the American Psychological Association and the National Therapeutic Recreation Society.

The IRO reviewer summarized that the injured person continues to have cognitive deficits including attention, executive functioning, organization, impulsivity, safety awareness, purposeful activity participation. The IRO reviewer went on to opine that:

According to medical literature and [Center for Medicare and Medicaid] guidelines, outpatient programs may include some psychosocial components; and to the extent these components are not primarily used for social purposes, they are covered. Additionally, CMS guidelines recommends “activity therapies but only that are individualized and essential for the for the treatment of the [injured person’s] condition. The treatment must clearly justify the need for each therapy utilized and explain how it fits into the [injured person’s] treatment.”

The IRO reviewer noted that the injured person’s medical comorbidities showed cognitive deficits impacting “executive functioning, organization, impulsivity, safety awareness, purposeful activity participation.” The IRO reviewer opined that “therapy to treat depression, fatigue, and vocational engagement may promote entry to a fuller integrated life for individuals with traumatic brain injury (TBI)...and increase personal independence.”

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent’s determination that the therapy training sessions provided to the injured person on June 2 and 7, 2021 were medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

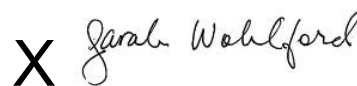
The Director reverses the Respondent’s determination dated June 28, 2021.

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 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



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford