

**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 Therapy**  
**Petitioner**

**File No. 21-1164**

**v**

**Citizens Insurance Company of America**  
**Respondent**

---

**Issued and entered**  
**this 1<sup>st</sup> day of October 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 July 21, 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 August 9, 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 9, 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 26, 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 September 17, 2021.

**II. FACTUAL BACKGROUND**

This appeal concerns the denial of payment for recreation therapy treatments provided to the injured person on June 18 and 23, 2021, under procedure codes 97537, 97129, and add on code 97130. The procedure

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

With its appeal request, the Petitioner stated that the injured person sustained a traumatic brain injury (TBI) as a result of a motor vehicle accident in November 1995. Submitted clinical documentation indicated the injured person's diagnoses as: personality change due to known psychological condition and other specified intercranial injury with loss of consciousness. Based on a progress treatment note, the injured person presented on the dates of service with the following problems: attention to task and concentration, memory issues, problem-solving, poor judgement, and a lack of appropriate social behavior. In a letter included in its appeal request, the Petitioner notes that the injured person "suffers from a chronic disability" and presents with "severe, ongoing, and complex deficits" that are treated with recreational therapy.

In its determination the Respondent stated that the Petitioner overutilized services and the recreation therapy treatments provided were not medically necessary. The Respondent noted that its basis for denial was consistent with the Official Disability Guidelines (ODG). The Respondent further explained:

Charges are denied per review of the medical documentation. Treatment is not medically necessary. [The injured person] is at maximum medical improvement. [The injured person] receives 24 hour a day attendant care provided by both [the injured person's] family and an outside agency. The [Petitioner] notes they are helping [the injured person] walk, engage in conversations, sew and order food on-line 3-4 times a week. The [Petitioner] themselves have stated [that the injured person] had made considerable progress over the last 25 years. Recommendations were made to have [the injured person's] attendant care givers provide and develop home exercise program.

### 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 dispute regarding overutilization and inappropriate treatment.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the recreation therapy treatments provided to the injured person on the dates of service at issue were overutilized in frequency or duration, and not medically necessary based on medically accepted standards.

The IRO reviewer is a board-certified neurologist. 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 American Therapeutic Recreation Association's standards for the practice of recreational therapy and Official Disability Guidelines (ODG) for physical/occupational therapy in head conditions and traumatic brain injury for its recommendation.

The IRO reviewer explained that the ODG recommends rehabilitation during acute and sub-acute periods after a brain injury, with treatment not exceeding a duration of greater than 26 weeks. Based on the documentation, the injured person's brain injury was sustained over 25 years ago. Additionally, the IRO reviewed noted ODG recommends fading of treatment frequency from up to three visits per week to one or less with active self-directed home therapy.

The IRO reviewer opined that, based on the submitted documentation, there is no recommendation for continued recreation therapy 25 years into the post-acute period of injury. A recreation therapy progress note from June 18, 2021 indicated the injured person was to participate in recreational therapy treatment 3-4 times per week for 1.5-5 hours per session. The IRO reviewer opined that the injured person has not made functional improvements during their time in therapy and documentation does not demonstrate fading of treatment. Further, the IRO reviewer opined that the injured person has reached their maximum rehabilitative potential.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the recreation therapy services provided to the injured person on June 18 and 23, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

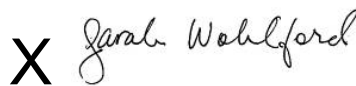
#### IV. ORDER

The Director upholds the Respondent's determination dated July 21, 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



---

Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford