

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

In the matter of:

**Resilire Neuro
Petitioner**

File No. 21-1177

v

**Citizens Insurance Company of America
Respondent**

**Issued and entered
this 22nd day of September 2021
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On July 29, 2021, Resilire Neuro (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 May 13, 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 30, 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 8, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for vocational rehabilitation services rendered on March 3 through March 31, 2021 under Current Procedural Terminology (CPT) code 91999, which is described as a procedure or report, unlisted special service.

With its appeal request, the Petitioner submitted documentation that indicates that the injured person was in a motor vehicle accident in April 2003 and suffered a traumatic brain injury (TBI). The Petitioner's documentation indicated that the injured person has deficits related to the TBI, including attention span, decision-making, endurance, following directions, problem solving, social skills, safety awareness, decreased mood, and poor short-term memory.

In support of the necessity of the treatment rendered, the Petitioner noted:

[The injured person] can only follow 2-3 step directions with moderate assistance and cueing from staff at a rate of 75%. She requires occasional reminders to stay on task as she can become engrossed in socializing with clients and staff, and she also needs occasional reminders to keep her conversations appropriate for the workplace.

In addition, the Petitioner's request for an appeal stated:

The Supported Employment Programs is designed as a streamlined form of treatment that provides resident access to the community and vocational training that aligns with their physical and cognitive capabilities. Perhaps the most important aspect of this program is its utilization of supervised employment to provide the residents with an opportunity to receive real-world employment training and receive a wage for the work they perform. Thus, increasing participant engagement with the activity and providing them a sense of purpose and accomplishment. A common example of such a program is Goodwill which has historically provided employment opportunities to individuals such as [The injured person] to reintegrate them into the workforce.

In its determination, the Respondent stated that the vocational rehabilitation services were not medically necessary. In its reply, the Respondent further explained:

This "supportive employment program" is not recognized by the [American Medical Association] as representing a valid CPT code, which is the reason it is billed as 91999. The appeal letter does not satisfy the requirements of allowing this "NOS" code. Additionally, [the motor vehicle accident] was 20 years ago. Insufficient documentation of continued need for/long term benefit from services that long after injury.

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 services 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 supported on the dates of service at issue and the services were not overutilized in frequency or duration based on medically accepted standards as defined by R 500.61(i).

The IRO reviewer is a physician, board-certified in physical medicine and rehabilitation with knowledge in the care of patients involved in a motor vehicle accident with traumatic brain injuries. 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 Guidelines (ABPMR) and peer-reviewed medical journal articles regarding supported employment services for TBI patients.

The IRO reviewer opined that the vocational rehabilitation services provided to the injured person from March 3 through 31, 2021 were medically necessary in accordance with medically accepted standards. The IRO reviewer summarized that due to the injured person's inability to sustain meaningful employment, enrolled in a vocational rehabilitation program. The IRO reviewer opined that "an overwhelming amount of literature demonstrates that vocational rehabilitation programs significantly help patients who sustain brain injury and have difficulty in obtaining meaningful employment." The IRO reviewer further noted that the "American Board of Physical Medicine and Rehabilitation (ABPMR) accepts that vocational rehabilitation is a necessary and essential step in the recovery of an affected individual with traumatic brain injury (TBI)."

The IRO further opined:

When cognition, memory, executive functioning, and attention are affected, it is essential to provide a customized framework from which the injured person has lifelong access to. This has been widely studied and is known to provide significant benefit in obtaining and maintaining independence, and thus reducing social and medical costs thereafter. "A significant proportion of TBI patients, including those who are severely injured, are able to return to productive employment if sufficient

and appropriate effort is invested. A comprehensive approach -medical and psychosocial -eventually entailing adequate vocational rehabilitation with supported employment can improve outcomes.”

In addition, the IRO reviewer opined that the message therapy services were not overutilized in frequency or duration for the dates of service at issue. The IRO reviewer noted that:

[Injured persons] who sustain a traumatic brain injury naturally may have difficulty in navigating not only how to obtain work, but also how to be productive in the workforce and sustain employment. In this case, it is documented by [the injured person’s] primary physician and other treating providers that she has difficulty with attention, following directions beyond 2-3 steps, problem solving and decision making issues, as well as poor short-term memory and endurance. For all of these reasons and more, she would benefit from vocational training in becoming financially independent.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent’s determination that the vocational therapy services provided on March 3 through 31, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

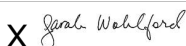
The Director reverses the Respondent’s determination dated May 13, 2021.

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



Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford