

**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. 21-1186**

**v**

**Hanover Insurance Group**  
**Respondent**

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**Issued and entered**  
**this 7<sup>th</sup> day of October 2021**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On July 29, 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 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 Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

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. Both parties were issued a written notice of extension on September 22, 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 29, 2021.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for service rendered on June 4, 2021, under Current Procedural Terminology (CPT) code 90889, which is described as report preparation. With its appeal request the Petitioner submitted documentation that indicated that the injured person was in a motor vehicle accident in November 1995 and suffered a traumatic brain injury. The Petitioner submitted a letter of medical necessity along with plan of treatment to support its appeal request.

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

[Plans of Treatments (POTs)] are created every 6 months at minimum as this reflects the specific long-term goals we set for our clients when a physician has prescribed therapy. We bill code 90889 for our POTs which take the place of physician orders or prescriptions. The client's goals are reviewed by the therapist and the client at least every six months, updated and then the POT is sent to the physician for their approval and signature. These goals are based on the World Health Organization Disability Assessment Schedule (WHODAS) developed from a comprehensive set of International Classification of Functioning, Disability and Health (ICF) items that are sufficiently reliable and sensitive to measure the difference made by a given intervention. This is achieved by assessing the same individual before and after the intervention.

In its "Explanation of Review" dated June 25, 2021, the Respondent stated that the Petitioner's rendered service was not medically necessary. As a basis for denial, the Respondent stated that its utilization review was consistent with the Official Disability Guidelines (ODG). The Respondent has not provided the Department with a reply to the Petitioner's appeal or other documentation in support of its determination.

## 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 service. .

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 date of service at issue 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 the American Therapeutic Recreation Association for its recommendation.

The IRO reviewer opined that the service provided to the injured person on June 4, 2021, was not medically necessary in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer stated that the most appropriate guidelines for the service in question are the American Therapeutic Recreation Association guidelines. The IRO reviewer noted that according to the most appropriate guidelines, the treatment plan is the foundation for the implementation of a successful treatment program and the achievement of desired patient outcomes. The IRO reviewer further noted that a treatment plan provides for a selection of appropriate evidence-based intervention strategies; guidelines for implementation of programs; the basis for patient/client outcome evaluation; discharge planning; and possible after care.

The IRO reviewer further noted that according to the Standards for the Practice of Recreational Therapy by the American Recreation Association, the report preparation service was not medically necessary. The IRO reviewer further noted that:

[T]he [Petitioner] states a discharge plan in collaboration with [the injured person], family, significant others and treatment team members is needed in order to discharge [the injured person] or to continue treatment and aftercare, as needed. One of the most common reasons for discontinuation of services in outpatient rehabilitation is because the patient has reached their maximum rehabilitative potential.

Based on the documentation submitted, the IRO reviewer opined that:

In this case, the treatment notes do not cite how long [the injured person] has been in therapy, however, there is note that the motor vehicle accident occurred 25 years ago. Furthermore, the records do not indicate that [the injured person] has made functional improvements during her time in therapy nor do they demonstrate fading of treatment. Since [the injured person's] therapy is no longer medically necessary, a Plan of Treatment is also no longer medically necessary.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the report preparation service provided to the injured person on June 4, 2021 was 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 June 25, 2021.

This order relates only to the treatment, products, services, or accommodations and dates of service discussed herein, and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatments or dates of service not addressed in this order.

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*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford