

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

In the matter of:

Lighthouse Outpatient Center
Petitioner

File No. 21-1213

v

Allstate Property and Casualty Insurance Company
Respondent

Issued and entered
this 7th day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 4, 2021, Lighthouse Outpatient Center (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 Allstate Property and Casualty Insurance Company (Respondent) that the Petitioner that the cost of the treatment, products, services, or accommodations was inappropriate 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 dates 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 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 10, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring professional expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on August 17, 2021.

II. FACTUAL BACKGROUND

This appeal concerns reimbursement amounts for psychotherapy treatments provided to the injured person on April 7, 14, 21, and 29, 2021, under procedure code 90832 with an AJ modifier. The procedure code and modifier represent individual psychotherapy treatment provided by a licensed clinical social worker. With its appeal request, the Petitioner argues that its charged rates are reasonable “based on what is needed to cover [its] cost” and “all services provided should be paid in full.”

In its “Explanation of Medical Bill Payment” dated June 2, 2021, the Respondent explained that it based its reimbursement amount on “the [FAIR Health] Charge Benchmark Database.” In its reply, the Respondent reaffirmed its position that its reimbursement amount was appropriate, stating:

As a standard for reasonable and customary, we utilize Fair Health pricing and the [Petitioner’s] bills were repriced pursuant to the Fair Health allowed amounts.

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 inappropriate cost.

Under Chapter 31 of the Code, a provider may charge a reasonable amount for treatment, training, products, services, or accommodations; however, an insurer is only required to reimburse “reasonable charges” for services. See MCL 500.3157(1)¹, MCL 500.3107(1)(a). Under the Code, “the ‘customary charge’ limitation in § 3157 and the ‘reasonableness’ language in § 3107 constitute separate and distinct limitations on the amount health-care providers may charge and what insurers must pay with respect to victims of automobile accidents who are covered by no-fault insurance.” *Advocacy Org for Patients & Providers v Auto Club Ins Ass’n*, 257 Mich App 365 at 376, 670 NW2d 569 (2003), *aff’d* 472 Mich 91, 693 NW2d 368 (2005).

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the Respondent’s reimbursement amount for procedure code 90832 with an AJ modifier on the dates of service at issue was more than a usual and customary amount, and therefore was appropriate under Chapter 31 of the Code.

The IRO reviewer is a professional coder with certifications as a certified professional coder, certified professional biller, and certified professional medical auditor through the American Academy of Professional

¹ Section 3157 was amended by PA 21 of 2019; however, the relevant language in what is now Section 3157(1) was substantively unchanged and is therefore applicable to the dates of service in this appeal.

Coders. The IRO reviewer assessed the "itemized billings" submitted against billing conventions per the Centers for Medicare & Medicaid Services and the American Medical Association's professional coding guidelines. In addition, the IRO reviewer based its recommendation on the geographic region where the services were rendered and the "charge benchmarks for various geographic areas based on the claims data contributed to FAIR Health at the 80th percentile."

The IRO reviewer conducted an audit of the submitted documentation to identify the "fair and reasonable reimbursement amounts" for procedure code 90832 with an AJ modifier for the dates of service at issue. Based on its audit, the IRO reviewer summarized the following:

[The] total billed charges from the provider amount to \$526.00. The total usual and customary reimbursement allowance after audit is \$373.88, for a difference of \$152.12. The estimated U&C (usual and customary) amounts for the CPT codes submitted were averaged from the State of Michigan U&C, and UCR fee schedules within the geographical location. Based on the records provided, the total covered amount was \$380.00 which was in excess of the U&C amount of \$373.88. Therefore, no further payment is required at this time.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the reimbursement amount for procedure code 90832 with an AJ modifier was appropriate under Chapter 31 of the Code for the dates of service at issue.


IV. ORDER

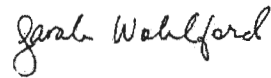
The Director upholds the Respondent's determination dated June 2, 2021.

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

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford