

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 & Community Recreation Therapy
Petitioner

File No. 21-1246

v

Citizens Insurance Company of America
Respondent

Issued and entered
this 9th day of September 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 9, 2021, Home & 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, 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 10, 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 10, 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 12, 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 19, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on May 17, 21, and 28, 2021, under Current Procedural Terminology (CPT) codes 97537, 97530, and an add-on code of 99082, which are described as work reintegration, therapeutic activities, and unusual travel, respectively.

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 with the following problems: attention to task and concentration, memory issues, problem-solving, poor judgment, and a lack of 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 stated:

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

In its explanation of review, the Respondent determined that the Petitioner overutilized services and the treatment rendered was not medically necessary. As a basis for its denial, the Respondent stated that utilization review was complete and consistent with the Official Disability Guidelines (ODG). In its reply, 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 matter of medically necessity 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 not supported for the dates of service at issue and the treatments rendered were overutilized in frequency or duration based on medically accepted standards in accordance with R 500.61(i).

The IRO reviewer is a medical doctor board-certified in physical medicine, rehabilitation, and pain medicine. The IRO reviewer referenced R 500.61(i), in its report, 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 evidence-based guidelines regarding physical medicine and rehabilitation and brain injury, including guidelines from the Principles and Practice of Brain Injury Medicine.

The IRO reviewer opined that the treatments provided to the injured person on May 17, 21, and 28, 2021 were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer noted that during the treatments rendered on the dates of service at issue, the injured person participated in "home based fitness," a cognitively challenging sewing activity, and an activity to obtain sewing supplies.

Specifically, the IRO stated:

While cardiovascular and cognitively challenging activities are important for this [injured person], they are not medically necessary. There are not generally accepted practice guidelines or evidence-based practice guidelines that support continued recreational therapy for a person who sustained a brain injury 25 years ago as [the injured person] has already reached maximum level of improvement.

The IRO reviewer further noted that the treatments provided to the injured person on May 17, 21, and 28, 2021 were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer stated:

As noted above, there are not generally accepted practice guidelines or evidence-based practice guidelines that support continued recreational therapy for a person

who sustained a brain injury 25 years ago as [the injured person] has already reached the maximum level of improvement. Therefore, the treatments were overutilized in frequency or duration.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the treatments provided to the injured person on May 17, 21, and 28, 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 28, 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:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford