

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

In the matter of:

Minimally Invasive Pain Specialists
Petitioner

File No. 23-1510

v

Citizens United Reciprocal Exchange
Respondent

Issued and entered
this 26th day of December 2023
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On October 20, 2023 and November 3, 2023, Minimally Invasive Pain Specialists (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 United Reciprocal Exchange (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 Respondent issued bill denials to the Petitioner on September 6, 12, and 22, 2023, and October 12 and 13, 2023.

The Department accepted the request for an appeal on October 23, 2023. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 6, 2023 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on November 27, 2023.

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 December 6, 2023. In response to a request from the Department, the IRO submitted an amended report on December 8, 2023.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for surgical injections and drug products rendered on July 27, 2023, August 3, 10, and 17, 2023, and September 6 and 11, 2023. The Petitioner billed the Respondent for these injections and drug products using Current Procedural Terminology (CPT) codes 64454, 64624, 96374, 64633, 64634, 64490, 64491, and 99152, Healthcare Common Procedure Coding System (HCPCS) Level II codes J2250, J3010, and National Drug Code (NDC) 00407141230.

These procedure codes are described as injection(s), anesthetic agent(s) and/or steroid, genicular nerve branches, including imaging guidance, when preformed; destruction by a neurolytic agent, genicular nerve branches including imaging guidance, when preformed; therapeutic, prophylactic, or diagnostic injection, intravenous push, single or initial substance/drug; destruction by a neurolytic agent, paravertebral facet joint nerve(s), with imaging guidance, cervical or thoracic, single facet joint; destruction by a neurolytic agent, paravertebral facet joint nerve(s), with imaging guidance, cervical or thoracic, each additional facet joint; injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance, cervical or thoracic, single level; injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance, cervical or thoracic, second level; moderate sedation services provided by the same physician or other qualified health care professional performing the diagnostic or therapeutic service that the sedation supports, initial 15 minutes of intra-service time, patient is age 5 year or older; injection, midazolam hydrochloride, per 1 milligram; injection, fentanyl citrate, 0.1 milligram; and Omnipaque 240 injection contrast, respectively.

With its appeal request, the Petitioner submitted supporting documentation which included determinations issued by the Respondent, medical records, and a narrative outlining its reason for the appeal. The Petitioner's documentation identified the injured person's diagnoses as spondylosis of the cervical region without myelopathy or radiculopathy and pain in the right and left knees, following a May 2023 motor vehicle accident (MVA).

The Petitioner's request for an appeal stated:

We followed all the criteria set forth by [M]edicare and other agencies. Also they suggest that on cervical spine radiofrequency ablations [(RFA)] each side is to be done separately, with [at least] 1 week s[e]paration per side due to increased risk of vertigo with this area of the body. The [injured person] met all the pre-RFA criter[ia] as follows: 1. [Greater than] 80% relief with medial branch blocks [times] 2. 2. Pre-injection pain score was [greater than or equal] to 6/10 or higher. 3. [The injured person] completed physical ther[ap]y, chiropractic care, over the counter medications, and prescription medications for greater than 6 weeks prior to the procedures.

In its reply, the Respondent reaffirmed its initial determination and stated that the surgical injections and drug products, for the dates of service at issue, were not medically necessary. Specifically, the Respondent noted:

[The injured person is] months post [MVA] with neck pain due to the 2 herniated discs documented on [magnetic resonance imaging (MRI)]. The [injured person has] been given medial branch blocks with very short-term relief. [The Petitioner] now wants to do [RFA]. [RFA] is not medically necessary to treat [the injured person]. [The injured person's] neck pain is due to herniated discs at C-4 5 and C5 6 without neural foraminal stenosis. Facet injections will not cure pain from herniated discs... There [has] been no treatment for the knees. [The injured person] was given bilateral genicular nerve blocks. Genicular nerve blocks are not medically necessary to treat [the injured person's] bilateral knee pain. This is a relatively new treatment used for severe knee pain that [has] been unresponsive to other treatments. There is no evidence [that the injured person has] had any conservative treatment to the knees. No need diagnosis is given. No imaging is presented. The [injured person] must have an adequate trial of conservative care prior to considering these injections.

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 treatment 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 for the dates of service of July 27, 2023, and August 3, 10, and 17, 2023 based on medically accepted standards. The IRO reviewer concluded that medical necessity was not supported for the dates of service of September 6 and 11, 2023.

The IRO reviewer is a physician, board-certified in physical medicine and rehabilitation with certification in pain management. 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, boards, and associations. The IRO reviewer relied on the Official Disability Guidelines (ODG) and cited medical literature for its recommendation.

The IRO reviewer noted:

According to the ODG guidelines, cervical medial branch blocks are supported for a diagnosis of cervical facet-mediated pain when clinical presentation is consistent with facet joint pain signs and symptoms. The dates of service 7/27/2023 (medial branch block C3, C4, and C5), 8/03/2023 (medical branch block C3, C4, and C5), 8/10/2023 (left [RFA] C3,4,5) , and 8/17/2023 (right [RFA] C3,4,5) are considered medically necessary. MRI of [the] cervical spine reveals impressions of cervical disc herniations at C4-5 and C5-6. However, 7/27/2023 exam findings ... supported axial neck pain. Spurlings sign was negative. The clinical documentation supports improvement in symptoms after injections. The medical literature supports the use of medial branch blocks for the treatment of axial neck pain. Therefore, [the IRO reviewer] elects to certify the dates of service 7/27/2023, 8/3/2023, 8/10/2023, and 8/17/2023 based on medical necessity.

The IRO reviewer further noted:

ODG [g]uidelines do not recommend genicular nerve block for knee and leg conditions. Regarding the dates of service 9/06/2023...and 9/11/2023...; the medical services are not considered medically necessary. There was no detailed evidence of weeks-months(s) of a recent, reasonable and/or comprehensive treatment protocol trial and failure submitted prior to proceeding with injections. Therefore, [the IRO reviewer] elects to uphold the prior denial for the dates of service of 9/06/2023 and 9/11/2023 as medical necessity has not been established.

The IRO reviewer recommended that the Director reverse, in part, the Respondent's determination that the surgical injections and drug products provided to the injured person on the dates of service were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses, in part, the Respondent's determinations dated September 6, 12, and 22, 2023, and October 12 and 13, 2023.

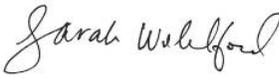
The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the surgical injections and drug products rendered on July 27, 2023, and August 3, 10, and 17, 2023, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment 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 treatment 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 Appeals, Legal Research, and Market Regulation, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford