



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
P. O. BOX 295

TRENTON, NEW JERSEY 08625-0295
Telephone (609) 292-7524 / Facsimile (609) 777-1779
TRS 711 (609) 292-6683
www.nj.gov/treasury/pensions

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

May 22, 2023

FINAL ADMINISTRATIVE DETERMINATION

[REDACTED]

Dear Ms. [REDACTED]

I am writing in reference to your letter addressing the actions of the School Employees' Health Benefits Commission (Commission) in denying your appeal for additional reimbursement for out-of-network services provided from July 9, 2020 through September 1, 2020 by Carteret Comprehensive Medical Care (CCMC). Your appeal was denied based on the rules governing reimbursement for out-of-network physical therapy services. The Commission herein expands its findings of fact and conclusions of law and issues this final administrative determination.

Findings of Fact

On September 16, 2018, the School Employees' Health Benefits Plan Design Committee (PDC) passed a resolution to create a new plan for SEHBP members titled NJ Direct 0 also known as NJ Direct Zero.¹ The resolution set the NJ Direct Zero reimbursement rate for out-of-network physical therapy services at a fixed dollar amount equal to the average of the in-network cost. In accordance with the resolution, the NJ Direct and CWA Unity Direct Member Guidebook for Employees and Retirees enrolled in the State Health Benefits Program or School Employees' Health Benefits Program for Play Year 2019 (2019 Guidebook) notified SEHBP members the fixed, flat-rate, out-of-network physical therapy reimbursement rate for the SEHBP's NJ Direct Zero plan for plan year 2019 was \$52 per visit.

Effective July 1, 2019, you enrolled in the SEHBP's NJ Direct Zero plan as a non-Medicare eligible retiree. NJ Direct Zero is a self-insured Preferred Provider Organization administered for the SEHBP by Horizon Blue Cross Blue Shield of New Jersey (Horizon). You remained enrolled

¹ The resolution is available for viewing on the Division of Pensions and Benefits' (Division) website at: <https://www.state.nj.us/treasury/pensions/documents/hb/Resolutions/SEHBP-PDC/2018-1-SEHBP-PDC-Res-NJDIRECT-0.AETNAFREEDOM0.FINAL.pdf>.

in the NJ Direct Zero plan for plan year 2020.² The original NJ Direct and CWA Unity Direct Member Guidebook for Employees and Retirees enrolled in the State Health Benefits Program or School Employees' Health Benefits Program for Play Year 2020 (Original 2020 Guidebook) also notified SEHBP members the fixed, flat-rate, out-of-network physical therapy reimbursement rate for the SEHBP's NJ Direct Zero plan for plan year 2020 was \$52 per visit.³

On various dates from July 9, 2020 through September 1, 2020, you saw [REDACTED] at CCMC for treatment. [REDACTED] is a family medicine doctor. CCMC submitted claims totaling \$3,865.00 for the services to Horizon on your behalf. The procedure codes on the claims were: (a) 98925 – Osteopathic manipulative treatment (OMT); 1-2 body regions involved; (b) 97016 – Application of a modality to 1 or more areas; vaspneumatic devices; and (c) 97014 – Application of a modality to 1 or more areas; electrical stimulation (unattended). Horizon remitted payment to CCMC in accordance with the procedure codes submitted by CCMC and the out-of-network physical therapy reimbursement rate for the SEHBP's NJ Direct Zero plan for plan year 2020.

On October 9, 2020, Horizon denied your First Level Administrative Appeal for additional reimbursement for the services. On April 5, 2021, Horizon denied your Second Level Administrative Appeal.⁴ In your Second Level Administrative Appeal, you asserted you received out-of-network osteopathic manipulation services from a Doctor of Osteopathic Medicine not physical therapy from a physical therapist; therefore, the services should not be subject to NJ Direct Zero's fixed, flat-rate, out-of-network physical therapy reimbursement rate of \$52.00 per visit. Horizon maintained the original denial for additional reimbursement for the services because NJ Direct Zero allow a specific amount for physical therapy services rendered by an out-of-network health care professional, regardless of the health care professional's specialty. Horizon determined the claims were processed correctly at the fixed reimbursement of \$52.00 based on the information and procedure codes submitted by CCMC.

After you exhausted your appeals with Horizon, the Commission heard your appeal as scheduled at its meeting on September 27, 2021. The Commission denied your appeal for additional reimbursement for the services. The Commission determined the claims were paid properly based

² Effective January 1, 2021, you were enrolled in the New Jersey Educators Health Plan in accordance with L. 2020, c. 44, § 1, codified as amended at N.J.S.A. 52:14-17.46.13(c)(2). The SEHBP no longer offers the NJ Direct Zero plan. N.J.S.A. 52:14-17.46.13(a).

³ Effective July 13, 2020 the Division posted an amended NJ Direct and CWA Unity Direct Member Guidebook for Employees and Retirees enrolled in the State Health Benefits Program or School Employees' Health Benefits Program for Play Year 2020 (Amended 2020 Guidebook) to its website. The Original 2020 Guidebook was amended to reflect changes made by the PDC to out-of-network reimbursement rates for chiropractic, acupuncture, and physical therapy services for all plans offered by the SEHBP. Since the PDC's changes brought the out-of-network reimbursement rate for physical therapy services for all plans offered by the SEHBP in line with the reimbursement rate for the plan design of the NJ Direct Zero and the services at issue in this appeal were rendered mostly after the Division posted the Amended 2020 Guidebook to its website, all subsequent guidebook references in this final administrative determination will be to the Amended 2020 Guidebook.

⁴ In the interim, you wrote to the Division to request a Commission appeal on February 23, 2021. However, your request was premature because you had not exhausted all appeals with Horizon. N.J.A.C. 17:9-1.3(a).

on the information and procedure codes submitted by CCMC and the out-of-network physical therapy reimbursement rate for the SEHBP's NJ Direct Zero plan for plan year 2020. However, the Commission gave you the opportunity to submit additional claims information regarding procedure code 97016 to Horizon for reconsideration within 30 days.

You did not submit additional documentation regarding procedure code 97016 to Horizon for review. However, on November 2, 2021, you requested a hearing in the Office of Administrative Law (OAL). On March 28, 2022, the Commission reviewed the relevant facts presented and determined that no issue of material fact exists. Therefore, the Commission denied your request for an OAL hearing.

Conclusions of Law

The SEHBP provides health coverage to qualified employees and retirees of participating local education employers. N.J.S.A. 52:14-17.46.1 to -46.16. The benefits under the contract or contracts for the SEHBP “may be subject to such limitations, exclusions, or waiting periods as the [C]ommission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or benefits otherwise available, including coverage afforded under the laws of the United States, such as the federal Medicare program, or for other reasons.” N.J.S.A. 52:14-17.46.5(d). The Commission has the “exclusive jurisdiction to determine disputed matters under the plan.” [REDACTED], 389 N.J. Super. 510, 513 (App. Div. 2007) (citing N.J.S.A. 52:14-17.27 to -17.28); see also N.J.S.A. 52:14-17.46.3 and N.J.S.A. 52:14-17.46.5 (analogous SEHBP statutes).

Pursuant to N.J.A.C. 17:9-2.14, the Commission adopts by reference all of the policy provisions contained in the SEHBP health plan contracts, along with any subsequent amendments, to the exclusion of all other possible coverages. “The plans handbook supplements the master contracts and contains the specific provisions for services to be covered and those which are excluded.” Ibid. Thus, the plans handbook “embod[ies] the terms of the [SEHBP] as communicated to [its members].” [REDACTED], 264 N.J. Super. 141, 144 (App. Div. 1993).

All NJ DIRECT plans provide both in-network and out-of-network benefits. Amended 2020 Guidebook at 5. When a SEHBP member exercises the option to use out-of-network providers, the member is responsible for any amount charged by the provider that exceeds the SEHBP's reimbursement rate. Id. 15. Thus, SEHBP members have lower out-of-pocket costs when they use in-network providers. Id. at 21.

Under the heading “**CHARGES NOT COVERED BY NJ DIRECT**,” the Guidebook stated: “Charges above the reasonable and customary allowance or out-of-network plan allowance. This includes all charges above the fixed dollar benefit limit for out-of-network acupuncture, out-of-network chiropractic services, and out-of-network physical therapy services” Id. at 46. See also Id. at 67 (“Out-of-Network coverage for chiropractic services, acupuncture services and physical therapy services will be subject to a fixed dollar limit per visit.”). The fixed dollar benefit limit for out-of-network physical therapy was \$52 per visit. Id. at 70. Medically necessary physical therapy “is covered based on one session per day. A session of therapy is defined as up

to one hour of therapy (treatment and/or evaluation) or up to three therapy modalities provided on any given day.” Id. at 42.

The Guidebook is clear and unambiguous. The fixed dollar benefit limit for out-of-network physical therapy for the SEHBP’s NJ Direct Zero plan was \$52 per visit during plan year 2020. You declined the opportunity to submit additional documentation regarding procedure code 97016 to Horizon for review. Therefore, the claims were paid properly based on the information and billing codes submitted by CCMC for the services. Thus, you are responsible for CCMC’s charges for the services in excess of the fixed, flat-rate \$52 per visit reimbursement rate.

Your appeal is denied. You have the right, if you wish, to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

Sincerely,



Kelly Fields
Acting Secretary
School Employees’ Health Benefits Commission