

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

XXXXXXXXXXXXXXXXXXXXXX.,

Petitioner

Case No. 04-395-BC
Docket No. 2004-115

v

Blue Cross and Blue Shield of Michigan,

Respondent

For the Petitioner:

For the Respondent:

Vicki Myckowiak (P42650)
Michael Myckowiak (P37747)
Myckowiak Associates, P.C.
1724 Ford Building
Detroit, MI 48226-3990
(313) 963-1002
FAX (313) 962-3779
mvdd@earthlink.com

Joseph W. Murray (P33284)
Blue Cross and Blue Shield
of Michigan
600 Lafayette East, #1925
Detroit, Michigan 48226-2998
(313) 225-7830
FAX (313) 983-2470
jmurray@bcbsm.com

Issued and entered
this 28th day of February 2006
by John R. Schoonmaker
Special Deputy Commissioner

FINAL DECISION

The Petitioner in this matter asserts she should retain \$46,610 the Respondent paid her for tests she ordered for her patients. The Respondent contends the tests were not medically necessary or adequately documented and that Petitioner should repay the \$46,610.

The Administrative Law Judge issued a Proposal for Decision dated December 20, 2005. He concluded that the Respondent should only be able to seek reimbursement for \$23,911.

The Administrative Law Judge gave the parties until January 9, 2006, to file exceptions. Both parties filed exceptions, but after January 9, 2006, so they are not taken into account in this Final Decision. This is likely inconsequential, however, as the parties had already clearly articulated their positions in their Post-Hearing Briefs and abundantly supported those positions by quotes from and citations to exhibits and testimony.

The factual findings in the PFD are amply supported by the evidence and, except as noted below, the conclusions of law are supported by reasoned opinion. The PFD is attached, adopted, and made part of this final decision except for the conclusion that the Respondent violated MCL 550.402(1)(b), (c), and (d). While the Respondent was incorrect in some of its audit determinations, it acted reasonably and promptly upon communications respecting claims. Its investigation through the audit implemented reasonable standards. Its attempt to recoup claims payments was conducted by a reasonable investigation based upon the available information.

Additionally, no violation of MCL 550.403(1) occurred because the Respondent had already paid the claims. A violation would have occurred had the Respondent already recouped more than \$23,911.

ORDER

Therefore, it is ORDERED that BCBSM is limited to \$23,911 in reimbursement.