

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

In the matter of:

██████████
Petitioner

v

File No. 151403-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 2nd day of January 2016
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 21, 2015, ██████████, on behalf of her ██████████ daughter ██████████ (Petitioner), filed a request for external review with the Director of Insurance and Financial Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the request on December 30, 2015.

The Petitioner receives dental care benefits under a small group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Petitioner's dental care benefits are defined in BCBSM's *Blue Dental Group Benefits Certificate SG and Rider BD-PPO 100/80/50 (80/50/50) SG*.

The Director notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. The Director received BCBSM's response on January 8, 2016.

The issue in this external review can be decided by a contractual analysis. The Director reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

On September 1, 2015 the Petitioner had four impacted wisdom teeth extracted under intravenous conscious sedation. During the procedure, the Petitioner received one 30-minute and four 15-minute sedation units. BCBSM provided coverage for the procedure with the exception

of one 15-minute unit of additional sedation. The amount charged for the disputed sedation was \$79.00.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, on November 18, 2015, BCBSM issued a final adverse determination affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's additional sedation?

IV. ANALYSIS

Petitioner's Argument

In a letter to BCBSM dated November 17, 2015, submitted with the request for external review, the Petitioner's mother wrote:

I'm appealing your company's decision to deny payment...for the 4th segment of anesthesia (D9242) that my daughter received on 9/1/15 while getting her 4 impacted wisdom teeth extracted. The reason listed on the denial is "not medically necessary."

My daughter is ■ and recently diagnosed with Polyarticular Juvenile Arthritis. She had to stop taking pain medication in preparation for this procedure and was probably more sensitive than normal. Anesthesia was started at 8:25 and was concluded at 10:05. Many times during the procedure, my daughter screamed out in pain. I was in the waiting room and could hear her. I actually had to leave the office so I didn't go crazy. This should be proof enough that the initial anesthesia administered was insufficient and more was needed.

If I would have had her teeth extracted only 2 at a time (instead of all 4 at one time), BCBS would have paid the initial segment (D9241) [plus] 2 additional segments (D9242) per procedure which would have totaled \$698.00. I am asking for the additional \$79.00 (for a total of \$507.00 paid). So in essence, I have saved BCBS \$191.00....

BCBSM's Argument

In its final adverse determination, BCBSM wrote:

Your request for reconsideration of the previous benefits provided for this service has been denied. It has been determined that the maximum amount of Intravenous Sedation has been allowed. This is a contractual limitation and according to the Department of Labor, no exceptions to this rule can be made.

Director's Review

The *Blue Dental Group Benefits Certificate* (page 11) covers IV sedation in connection with oral surgery, when medically or dentally necessary. In its initial denial of coverage BCBSM stated that additional sedation was not medically necessary. However, in its final determination, BCBSM stated that it denied coverage because "the maximum amount of IV sedation has been allowed."

BCBSM states that its Medical Director determined that there is a limitation of three 15-minute units of anesthesia. BCBSM, in the final adverse determination, asserts that the limitation is "contractual" in nature, although BCBSM has not cited any contractual provision which supports that assertion. There is nothing in the *Blue Dental Group Benefits Certificate* that establishes such a limitation.

Given BCBSM's lack of documentation to support its argument, the Director finds that BCBSM's denial of coverage was improper.

V. ORDER

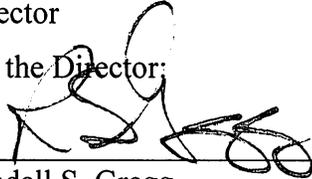
The Director reverses Blue Cross Blue Shield of Michigan's November 18, 2015 final adverse determination. BCBSM shall immediately provide coverage for the additional 15 minutes of IV sedation the Petitioner received. BCBSM shall, within seven days of providing coverage, furnish the Director with proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding its implementation the Department of Insurance and Financial Services, Health Plans Division, toll free 877-999-6442.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this order may seek judicial review no later than 60 days from the date of this order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director