

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

In the matter of:

██████████  
Petitioner

v

Blue Care Network of Michigan  
Respondent

File No. 151144-001

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Issued and entered  
this ~~22~~<sup>23</sup> day of January 2016  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On December 3, 2015, ██████████, authorized representative of ██████████ (Petitioner), filed a request with the Director of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits from Blue Care Network Michigan (BCN), a health maintenance organization. The Petitioner's benefits are defined in the *BCN1 for Large Groups Certificate of Coverage*.

The Director notified BCN of the external review request and asked for the information it used to make its final adverse determination. BCN provided its response on December 8, 2015. The Director accepted the request for review on December 10, 2015.

The medical issues in the case were evaluated by an independent review organization which submitted its analysis and recommendation to the Director on January 12, 2016.

**II. FACTUAL BACKGROUND**

The Petitioner, who is ██████████ years old, has growth failure due to idiopathic short stature. She also has a history of depression. She was started on growth hormone therapy on September 1, 2015 through the Pfizer Bridges Program.<sup>1</sup> After one month, her height had increased 136.43 cm and growth velocity 8.7 cm/year. As a result, her doctor requested that BCN provide

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1. The Petitioner's authorized representative is a registered nurse in the Pfizer Bridges Program.

coverage for the prescription drug Genotropin to continue the Petitioner's treatment. BCN denied the request.

The Petitioner's authorized representative appealed the denial through BCN's internal grievance process. At the conclusion of that process, BCN affirmed its decision in a final adverse determination issued October 28, 2015. The Petitioner's authorized representative now seeks the Director's review of that adverse determination.

### III. ISSUE

Did BCN correctly deny coverage for the prescription drug Genotropin to treat the Petitioner?

### IV. ANALYSIS

#### BCN's Argument

In a letter to the Petitioner's representative dated September 21, 2015, BCN's grievance coordinator wrote:

Coverage for human growth hormone (GH) therapy is not provided for idiopathic short stature. Coverage for growth hormone therapy for idiopathic short stature is not considered medically necessary, per plan medical policy.

In its final adverse determination, BCN stated that coverage was denied because "the member's diagnosis of Short Stature is an excluded diagnosis for coverage of this medication per our Medical Policy."

These letters did not identify the "medical policy" in question. However, BCN later provided a document titled *Blue Care Network Custom Drug List Prior Approval and Step Therapy Guidelines July 2015*. That document included a section describing coverage for "growth hormone and related products." It identified Genotropin as a "preferred" medication and stated:

#### **Preferred agents:**

**Children (<18 years of age):** Coverage is provided for the treatment of growth hormone deficiency, growth failure secondary to chronic renal failure/insufficiency who have not received a renal transplant, growth failure in children small for gestational age or with intrauterine growth retardation, Turner's Syndrome, Noonan's Syndrome, Prader-Willi Syndrome, SHOX deficiency, or for treatment of severe burns covering >40% of the total body surface area. The member's current height and weight must be provided. The member must also have open epiphyses.

**Initial treatment:** For growth hormone deficiency, test results confirming diagnosis must be provided. The member's height must be below the 5<sup>th</sup> percentile, and epiphyses must be confirmed as open.

**To continue:** The member must achieve a growth velocity of > 4.5 cm/year while receiving therapy over the past year. Treatment may continue until final height or epiphyseal closure has been documented.

### Petitioner's Argument

In the request for external review, the Petitioner's authorized representative wrote:

[Petitioner] was started on Genotropin growth hormone therapy, through the Pfizer Bridge Program, on September 1, 2015. At her most recent visit, October 5, 2015, [Petitioner's] height had increased to 136.43 cm. Growth velocity is now 8.7 cm/year. [Petitioner] has responded to growth hormone therapy as a person with growth hormone deficiency would be expected to.

\* \* \*

Genotropin is a well-tolerated and effective therapy that can increase height in pediatric patients with ISS.

In a letter submitted with the request for external review, the Petitioner's parents wrote:

Blue Care Network has twice turned down our appeal to pay for [Petitioner's] human growth hormone...because her diagnosis is "Idiopathic Short Stature" with no secondary diagnosis. We believe that [she] does in fact have a secondary diagnosis of depression which we believe is related to her short stature....

[Petitioner] has been short for her age since she began school....

[Petitioner] has been bullied at school starting in kindergarten; she is currently in seventh grade. Her depression became clearly evident by the time she was in second grade. Kids would tell her that she looked like she "should be in kindergarten" and would pick her up and swing her around or hold her and treat her like a baby. [Petitioner] finds it degrading, belittling and it hurts herself esteem....

[Petitioner's] being bullied aggravated her depression.

Over the past couple of months, [Petitioner's] depression has significantly improved over the improvement she has received from standard medications. This appears to be the case for [Petitioner] according to her psychiatrist and therapist.... We believe this improvement is due to her HGH therapy.

Research studies show that children with depression can suffer short stature because of the effect on brain chemistry and growth hormone regulation. Depression can decrease the body's response to releasing hormone production leading to short stature....

Research has also demonstrated that HGH therapy can ameliorate depression and improve quality of life in some individuals....

Other studies show that treatment with the HGH she is currently taking has ameliorated some of her behavioral and depressive symptoms....

Therefore, we are requesting [approval] for HGH treatment for [Petitioner] based on her primary diagnoses of short stature and her secondary diagnosis of depression....

### Director's Review

In its final adverse determination, BCN stated that, under its medical policy, coverage for Genotropin is not available for treatment of individuals diagnosed with "short stature." The term "short stature" does not appear in the medical policy, *Blue Care Network Custom Drug List Prior Approval and Step Therapy Guidelines July 2015*. Therefore, it cannot be concluded that the medical policy excludes coverage for Genotropin in the treatment of that condition. The Petitioner's diagnosis is for idiopathic short stature, another term that does not appear in BCN's medical policy.

BCN has also stated that growth hormone therapy is not medically necessary in the treatment of idiopathic short stature. The Director presented this assertion to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a practicing physician, board certified in pediatric endocrinology, who is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

Idiopathic short stature is defined as the height of an individual is more than 2 standard deviations scores below the corresponding mean height for a given age, sex, and population group without evidence of systemic, endocrine, and nutritional, or chromosomal abnormalities....[T]he member's height has been more than 2.25 standard deviations below the corresponding mean. The definition of idiopathic short stature includes short children labeled with constitutional delay of growth and puberty, familial short stature or both....[C]hildren with idiopathic short stature have normal growth velocity, often near or at the lower limit, as in the member's case, with no biochemical or other evidence for a specific growth-retarding condition and have normal growth hormone response to pharmacologic agents that lead to growth hormone release....[S]everal studies have demonstrated that growth hormone therapy generally increases height velocity acutely and may increase adult height in children with idiopathic short stature. The United States Food and Drug Administration approved growth hormone therapy for children with idiopathic short stature in 2003. The indication is for children with current height 2.25 standard deviations below the mean, in whom epiphyses are not close, and whose expected adult height is less than 63 inches for boys and 59 inches for girls.... [W]hile the member does not meet the Health Plan's criteria for coverage of Genotropin, continued growth hormone therapy is medically necessary for treatment of [her] condition. [References omitted.]

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the IRO's recommendation is afforded

deference by the Director. In a decision to uphold or reverse an adverse determination the Director must cite “the principal reason or reasons why the [Director] did not follow the assigned independent review organization’s recommendation.” MCL 550.1911(16)(b). The IRO’s analysis is based on extensive experience, expertise, and professional judgment. The Director, discerning no reason why the IRO’s analysis should be rejected in the present case, finds that Genotropin is medically necessary to treat the Petitioner.

#### V. ORDER

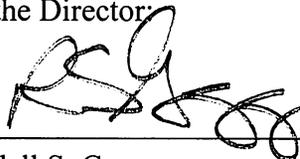
The Director reverses BCN’s final adverse determination of October 28, 2015. BCN shall immediately provide coverage for the prescription drug Genotropin and shall, within seven days of providing coverage, furnish the Director with proof it implemented this order.

To enforce this order, the Petitioner may report any complaint regarding its implementation to the Department of Insurance and Financial Services, Health Care Appeals Section, at this toll free telephone number (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:



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Randall S. Gregg  
Special Deputy Director