

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. 148137-001

Alliance Health and Life Insurance Company
Respondent

Issued and entered
this 1st day of July 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 2, 2015, ██████████ (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 medical benefits through a preferred provider organization (PPO) group health insurance policy underwritten by Alliance Health and Life Insurance Company (Alliance). The Director immediately notified Alliance of the external review request and asked for the information it used to make its final adverse determination. Alliance furnished the requested information on June 5, 2015. After a preliminary review of the material received, the Director accepted the request on June 9, 2015.

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

The Petitioner has a history of obesity. In 2006, she had bariatric surgery using the lap band procedure. Recently, she has been having adverse symptoms such as severe acid reflux. She finds it difficult to control her weight. She has requested that Alliance provide coverage for the reversal of the 2006 surgery by the removal of the lap bands. Alliance denied the request for

coverage ruling that the requested procedure is not a covered benefit under the Petitioner's benefit plan.

The Petitioner appealed the denial through Alliance's internal grievance process. At the conclusion of that process, on May 7, 2015, Alliance issued a final adverse determination affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did Alliance correctly deny coverage for a procedure to reverse the Petitioner's bariatric surgery

IV. ANALYSIS

AHLIC's Argument

In its final determination, Alliance wrote:

We upheld the denial because a removal or adjustment of a Lap Band is a non-covered benefit under the member's contract...

Based on [Alliance] Subscriber contract section 5.1 (d) Non-Covered Services, weight loss programs and services, reversal or revisions of Bariatric surgery are not covered.

Petitioner's Argument

In a statement submitted with her request for external review, the Petitioner wrote:

I am struggling with my lap-band to the point that my quality of life has deteriorated. I find it difficult to enjoy certain activities because of the health that I am currently in. I don't enjoy going out to eat with my family, because I may have to throw up my food (even still since [REDACTED] has removed all fluid from the band). I don't enjoy social outings with friends, because the reflux hurts so bad that I'd rather be at home near my gallon of milk and antacids. I am having a sever issue with acid reflux which I have worked on with 3 different doctors....I am currently taking Omeprazole which is helping, but I eat antacids many times throughout the day. I would believe this is not a good practice for my kidneys, but necessary for me to feel relief. At times, I have issues with my throat closing up due to either the [band's] position or the reflux. I am unable to know which at this time. My port site is always tender, even more so after doing strenuous activity. For reasons unknown, I am no longer maintaining a healthy weight. I had gotten down to 165 lbs., but I am now almost back to my starting weight. I

am at a point in my life where I'm eating healthier than ever, but continue to gain. I truly believe my overall gut health has deteriorated from the band. I can no longer control my weight as I would like.

After some discussion with [REDACTED] we feel the best option would be to remove the band. I am simply asking for a band removal. I had no other options when signing up for insurance at work. This plan is the only one offered and I was unaware at the time that bariatric wasn't included. I went to a couple appointments with [REDACTED] and after submitting their invoice his insurance staff showed that I was covered with certain Doctors in [REDACTED] but it turns out I don't have coverage at all for bariatric.

The Petitioner's physician, [REDACTED] submitted a letter in support of the Petitioner's request. He wrote:

[Petitioner] has been a patient of mine since 2006. At the patient's last visit on 02/24/15 she is 66 in tall and weighed 256.5 lbs with a BMI of 41.4. [Petitioner] has been significantly overweight for some time now and may benefit from a conversion to a gastric sleeve.

In addition to morbid obesity, [Petitioner] suffers from the following comorbid conditions:

- GERD

* * *

[Petitioner] has listed a family medical history of hypertension, heart attack and stroke with mother and maternal grandfather.

Please review this case for medical necessity and confirm procedures Removal of Lap Band, CPT 43774 and Sleeve Gastrectomy, CPT 43775 are authorized for reimbursement and that benefits are available for this patient based on Morbid Obesity, ICD-9 278.01.

Director's Review

The Petitioner's Alliance policy, in Section 5 "Medical Exclusions and Limitations," excludes coverage for weight loss programs and surgery:

5.1 Non-Covered Services

* * *

d. Weight Loss Programs and Services

- 1) Interventions including bariatric surgery for the treatment of obesity or for weight loss.

* * *

- 4) Reversals or revisions of bariatric surgery.

Under the terms of Petitioner's coverage, weight loss services including adjustment or removal of a lap band and related services are not covered benefits. Therefore, the Director finds that Alliance's denial of coverage for the proposed surgical reversal of the Petitioner's lap band is consistent with the terms of the Petitioner's policy.

V. ORDER

The Director upholds the final adverse determination issued by Alliance Health and Life Insurance Company on May 7, 2015.

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:

A handwritten signature in black ink, appearing to read 'R. S. Gregg', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director