

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. 145863-001-SF

████████████████████, Plan Sponsor,

and

Blue Cross Blue Shield of Michigan, Plan Administrator,
Respondents.

Issued and entered
this 9th day of February 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On January 16, 2015, ██████████ (Petitioner) filed a request with the Director of Insurance and Financial Services for an external review under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.* The Director accepted the request on January 26, 2015.

The Petitioner receives health care benefits under a group plan sponsored by the ██████████ (the plan), a self-funded governmental health plan subject to Act 495. Blue Cross Blue Shield of Michigan (BCBSM) administers the plan. The Director notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. BCBSM provided its response on January 29, 2015.

Section 2(2) of Act 495, MCL 550.1952(2), authorizes the Director to conduct this external review as though the Petitioner were a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

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's health care benefits are defined in BCBSM's *Community Blue Group Benefits Certificate ASC*¹ (the certificate).

On October 13 and 14, 2014, the Petitioner received these services at [REDACTED] Chiropractic: chiropractic manipulation (CPT code 98941) and massage therapy (CPT code 97124). All the services were billed by [REDACTED] Chiropractic. BCBSM covered the chiropractic manipulation but denied coverage for the massage therapy.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated November 26, 2014, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's massage therapy?

IV. ANALYSIS

Petitioner's Argument

In an appeal letter to BCBSM dated October 23, 2014, the Petitioner wrote:

On October 6, 2014 I contacted the [BCBSM] Customer Service Department to inquire about coverage for deep tissue massage therapy as I have been experiencing a lot of pain in my neck, upper and lower back. The representative looked up and verified that I did have coverage for this service. I was told it fell under the Physical Therapy of my medical policy.

I mentioned that I did know of a massage therapist that did this type of therapy at my chiropractor's office, which, the office is in the network. I was under the understanding from this conversation with her that I would be covered to go there.

For this reason I am disputing my claim for date of service on October 14, 2014 at [REDACTED] Chiropractic office. The massage therapy charge was \$60 and I have already paid \$25 which should have been my copay.

I would greatly appreciate you looking into this conversation I had with one of your representatives and getting back to me.

¹ BCBSM form no. 457F, effective 07/14.

BCBSM's Argument

In its final adverse determination, BCBSM acknowledged to the Petitioner that it had given her incorrect information:

You indicated . . . that you contacted customer service prior to October 14, 2014 and was advised massage therapy is payable to a chiropractor. I reviewed the recording of your October 6, 2014 telephone call to customer service. During the call, you were advised massage therapy is covered under your physical therapy benefits. The customer service representative further advised massage therapy should be payable to [REDACTED]

While I regret you received incorrect information from the customer service representative, as a Grievance and Appeals Coordinator for BCBSM, it is my responsibility to ensure that the claim at issue processed according to Plan Design. As a result, I am not able to make an exception on your behalf.

BCBSM also explained the reason for its denial:

[REDACTED] [REDACTED *Chiropractic*] submitted a claim for payment consideration and identified the service under procedure code 97124 (therapeutic procedure, one or more areas, each 15 minutes; massage including effleurage, petrissage and/or tapotement [stroking, compression, percussion]). This service was also identified as a type of service - physical therapy. Because your coverage does not provide benefits for physical therapy when performed by a chiropractor, payment cannot be approved.

I understand your position; however, Blue Cross Blue Shield of Michigan must administer benefits within the provisions and coverage of your contract.

Director's Review

BCBSM considers massage therapy to be a form of physical therapy and it is identified as such on the explanation of benefit payments statement that the Petitioner received. While physical therapy is a covered benefit, according to the certificate (p. 71) it is payable only when given by these approved providers:

- A doctor (M.D., D.O. or a podiatrist)
- A dentist or optometrist
- A chiropractor doing mechanical traction
- A physical therapist, physical therapist assistant, or athletic trainer
- A physician's assistant
- A certified nurse practitioner

The Petitioner's massage therapy was performed at and billed by [REDACTED] Chiropractic. The only covered form of physical therapy that may be rendered by a chiropractor under the plan is mechanical traction and the Petitioner did not receive that service. Moreover, the certificate (pp. 128-129) specifically excludes coverage for massage therapy:

Professional provider services that we do not pay for:

* * *

- Alternative medicines or therapies (such as acupuncture, herbal medicines and massage therapy)

It was unfortunate that BCBSM gave the Petitioner incorrect information about the massage therapy benefit. However, a review under the Patient's Right to Independent Review Act does not give the Director the authority to revise the terms of coverage because BCBSM's representative misinformed the Petitioner. The Director is limited to determining if a denial of benefits was in accord with the provisions of the certificate. Here, the Director concludes that BCBSM correctly denied the claim for the massage therapy because it was not a covered service under the terms of the certificate.

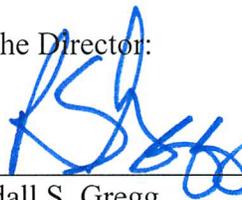
V. ORDER

The Director upholds BCBSM's final adverse determination of November 26, 2014. BCBSM is not required to cover the Petitioner's massage therapy provided on October 15, 2014.

This is a final decision of an administrative agency. 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 Michigan county where the covered person resides or in the circuit court of Ingham County. MCL550.1915 (1). 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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director