

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. 146452-001-SF

State of Michigan, Plan Sponsor,

and

Blue Cross Blue Shield of Michigan, Plan Administrator,

Respondents.

Issued and entered
this 25th day of March 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On February 23, 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.* On March 2, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits through a plan sponsored by the State of Michigan (the plan), a self-funded governmental health plan subject to Act 495. Blue Cross Blue Shield of Michigan (BCBSM) administers the plan. The Director immediately 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 March 11, 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.*

To address the medical issue in the case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation on March 16, 2015.

II. FACTUAL BACKGROUND

The Petitioner's benefits are contained in the booklet *Your Benefit Guide - State Health Plan PPO for Retirees Not Eligible for Medicare Benefit Guide* (the benefit guide).

On June 18, 2014, the Petitioner had a vitamin B-12 test that was ordered by his doctor. BCBSM denied coverage, saying that the test was not performed to treat or diagnose a medical condition.

The Petitioner appealed the denial through the plan's internal grievance process. Following a managerial level conference, BCBSM issued a final adverse determination dated December 31, 2014, upholding 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 vitamin B-12 test?

IV. ANALYSIS

Respondents' Argument

In its final adverse determination, BCBSM told the Petitioner:

In regards to procedure code 82607 (Cyanocobalamin [Vitamin B-12]), it was determined that this procedure was not performed to treat or diagnose a medical condition. Under the terms and conditions of your health care plan, this procedure is only payable when used to treat or diagnose a medical condition. As a result, we are unable to approve payment for this service.

Page 36 of the *State Health Plan PPO for Retirees Not Eligible for Medicare Benefit Guide* explains that we pay for laboratory and pathology tests used to diagnose and treat a disease, illness, pregnancy or injury. . . .

In this case, procedure code 82607 does not qualify as a payable laboratory and pathology test when performed as a routine screening. As mentioned above, in order for procedure code 82607 to be considered payable under your health care plan, it must be performed to diagnose or treat a medical condition. Therefore, to give your appeal full consideration, your medical records were requested for this procedure and reviewed by our board certified M. D. in Internal Medicine and Endocrinology who determined the following:

This member has fatigue and measurement of the Thyroid Stimulating Hormone (TSH) is medically justified. However, the member has no

evidence or history of megaloblastic anemia. Therefore, the measurement of B-12 is not indicated. Approval is granted for procedure 84443 and denial is maintained for procedure 82607.

I understand that you did have a consistent complaint of fatigue, and that you were unaware of what test[s] were being ordered. However, as mentioned above, our board-certified M. D. in Internal Medicine and Endocrinology determined that procedure code 82607 was not used to diagnose or treat medical condition. As a result, we are unable to approved payment for this service. Therefore, you remain liable for the non-covered charge of \$115.73 for this service.

Petitioner's Argument

On the external review request form the Petitioner said:

During my annual physical exam, I discussed with my doctor that I've been feeling very fatigued for several months. He ordered lab tests, some of which are routine for a physical, other tests to determine a medical cause for the fatigue I was experiencing.

After an appeal, BCBS has paid all lab tests except for the vitamin B-12 test, which they felt was not performed to treat or diagnose a medical condition. The cost of this test is \$115.73.

I strongly disagree. It is common knowledge that vitamin B helps boost one's energy. If I have a deficiency, then steps need to be taken to correct the problem. I have a thorough doctor, and have never known him to order needless tests. I believe the tiredness which I was experiencing did indeed warrant a blood test for vitamin B-12.

Director's Review

The benefit guide (p. 26) says:

Your benefits include physician services for diagnostic and radiation services to diagnose and treat disease, illness, pregnancy or injury through:

* * *

- Laboratory and pathology tests
- Diagnostic tests

BCBSM says the plan only covers laboratory and pathology tests that are used to diagnose and treat disease, illness, pregnancy or injury, and therefore the vitamin B-12 test is not a benefit when performed as a routine screening test.

To determine if the Petitioner's vitamin B-12 test was performed to treat or diagnose a medical condition, the Director presented the issue to an independent review organization (IRO) for analysis and a recommendation as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is certified by the American Board of Family Medicine, is an assistant professor at a university-based school of medicine, and is in active practice. The IRO report included the following analysis and recommendation:

Reviewer's Decision and Principal Reasons for the Decision:

It is the determination of this reviewer that the laboratory test for Vitamin B-12 (procedure code 82607) was performed to treat or diagnose a medical condition.

Clinical Rationale for the Decision:

The enrollee presented for a routine health maintenance examination at which time he reported fatigue. The standard of care would require clinical and laboratory evaluation for reversible/correctable causes of fatigue.

Although B-12 deficiency is commonly thought to be a cause of fatigue among patients and providers, there is no evidence based literature to support this. The current evidence based medical literature lists vitamin B-12 deficiency as the cause of megaloblastic anemia, neuropsychiatric symptoms, and elevated serum homocysteine levels, especially in older persons and in patients treated with metformin and proton pump inhibitors. There are currently no published guidelines on screening asymptomatic or low risk adults for vitamin B-12 deficiency. Without oval macrocytic red cells, hypersegmented neutrophils, pancytopenia or unexplained neurologic signs and symptoms such as dementia, progressive weakness, ataxia or paresthesia, there is no indication for obtaining B-12 level. However, at issue is the question of whether the B-12 level was drawn for the purpose of screening (V700) versus diagnosis of a medical condition. Although there is no evidence of B-12 deficiency included in the provided documentation, the enrollee's treating physician did order the B-12 level for evaluation of fatigue as many clinicians will do. As such, the B-12 level was indeed ordered for the purpose of diagnosing a medical condition, not for the purpose of screening for illness and is therefore a covered service.

Recommendation:

It is the recommendation of this reviewer that the denial issued by [BCBSM] for the laboratory test for Vitamin B-12 (procedure code 82607) be overturned.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the 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. In addition, the IRO’s recommendation is not contrary to any provision of the Petitioner’s certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO’s recommendation should be rejected in this case, finds that the vitamin B-12 test was performed to treat or diagnose a medical condition and therefore is a covered benefit under the plan.

V. ORDER

The Director reverses BCBSM’s final adverse determination of December 31, 2014.

Pursuant to section 1911(17) of the Patient’s Right to Independent Review Act, MCL 550.1911(17), BCBSM, acting for the plan, shall immediately approve coverage for the Petitioner’s vitamin B 12 test. 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 to the Department of Insurance and Financial Services, Health Care Appeals Section, toll free at (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 Michigan 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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director