

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

**In the matter of:**

██████████  
**Petitioner**

v

**Blue Cross Blue Shield of Michigan**  
**Respondent**

**File No. 147404-001**

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**Issued and entered**  
this 7<sup>th</sup> day of May 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On April 17, 2015 ██████████ (Petitioner), filed a request with the Director of Insurance and Financial Services for external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the case for review on April 24, 2015. The appeal concerns the amount paid by his insurer for air ambulance services.

The Petitioner receives health care benefits through a plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Health Care Handbook for Employees of Pike Distributors, Inc.* 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 May 4, 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**

On May 14, 2014 the Petitioner sought treatment in the emergency department of ██████████ ██████████, Michigan. He was diagnosed with Budd-Chiari Syndrome, a condition that causes occlusion of the hepatic veins that drain the liver and could result in the need for a liver transplant if not properly treated. He required surgery which could not be performed in ██████████. He was transported by air ambulance to the ██████████. The air

ambulance service was provided by [REDACTED], a provider that does not participate with BCBSM. [REDACTED] charged \$59,200.00. BCBSM approved these services and paid it approved amount of \$17,494.75, leaving a balance of \$41,705.25.

The Petitioner appealed BCBSM's payment decision through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated March 3, 2015, affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly process the claim for the Petitioner's air ambulance transportation?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination to the Petitioner, BCBSM wrote:

The provider...is a non-participating provider. Nonparticipating providers are not obligated to accept our approved amount as payment in full. In this case, the provider reported charges totaling \$59,200.00. However, BCBSM determined the approved amount of \$17,494.75 is the maximum payment amount for the service. Therefore, additional payment cannot be made.

#### Petitioner's Argument

In his request for an external review, the Petitioner wrote:

I am seeking further payment of my bill to [REDACTED]. I suffered a medical emergency that nearly cost me my life, in which I needed to be air lifted to a different hospital for surgery. I had no time to decide what company was going to provide my flight or how that company would bill our insurance. This was an extremely rare and unique situation and should be treated as such.

In a letter of appeal dated to BCBSM written in support of the emergency transport, the Petitioner's physician wrote:

I was the family medicine attending physician involved in this case and remember it well. I was initially called to the radiology department to see [Petitioner] on the afternoon of 5/14/2014 due to the unusual findings on his abdominal CT scan and his significant abdominal pain. By the next morning, an ultrasound of his hepatic vasculature was showing Budd-Chiari and the urgency of the situation became even more apparent....After

consulting our hospital GI physician, vascular surgeon, interventional radiologist, and interventional cardiologist, it was obvious that this was an unusual situation requiring transfer to the [REDACTED] – no one locally was comfortable handling the case. I then spoke with the on call hepatology specialist at the [REDACTED] who told me to place the patient on heparin and that she would arrange a bed in their intensive care unit. She told me to arrange for an air transfer but to not send him until she had secured a bed as they were full. Subsequently, there was a tense several hours waiting for a "green light" to send him that was difficult given the need to get him into the right hands to possibly do emergent intravascular intervention with TPA or similar meds. She had told me that he could lose his liver and require a liver transplant as an outcome of the situation, and that getting him to the [REDACTED] as quickly as possible was key. There was no question that this was an emergency in the minds of all involved. Add to this his worsening pain and abdominal distention – along with a clearly upset family – it should not be difficult appreciating the urgency of the situation.

I do hope that this letter, which is an accurate description of what happened leading up to the air transport, will be enough to support the insurance payment of his air transport bill.

#### Director's Review

The *Health Care Handbook* (page 39) includes this description of the coverage available to the Petitioner for air ambulance services:

Ground and air ambulance services required because of an injury or hospital admission are covered. Services must be medically necessary and prescribed by the attending physician. The patient may be transported to and from hospital, between hospitals, and between hospitals and approved medical facilities. Services must be provided by a licensed ambulance company. This benefit includes the equipment used, mileage and waiting time. Services provided by a fire department, rescue squad or other carrier whose fee is a voluntary donation are not covered.

There is no question that the Petitioner met the medical necessity criteria for coverage of air ambulance services under the handbook. The sole issue is how much BCBSM must pay for that service. The *Health Care Handbook*, on page 13, states that BCBSM pays its "approved amount" for covered services. "Approved amount" is defined in the *Handbook* as, "the BCBS maximum payment level or the provider's billed charge for the covered services, whichever is lower."

BCBSM determined that its maximum payment for the Petitioner's air ambulance transport and mileage was \$17,494.75 which it has paid. The provider in this case does not participate with BCBSM which means that it has not signed a participation agreement with BCBSM to accept BCBSM's approved amount as payment in full. Because the air ambulance provider has not agreed to accept BCBSM's approved amount as payment in full, it can bill the Petitioner's family for the difference

between its charges and BCBSM's approved amount. The *Handbook* does not require BCBSM to pay a nonparticipating provider's charge in full under any circumstances. As the *Handbook* notes on page 8:

Remember, the amount BCBS reimburses you may be less than the amount your provider charged. You are responsible for the amount the provider charged above the BCBS approved amount.

The Patient's Right to Independent Review Act (PRIRA) authorizes the Director to address issues of medical necessity and to review an insurer's claims decisions to determine whether those decisions are consistent with the terms of the insurance policy in question and any applicable state law. The Director does not regulate medical providers such as, in this case, a private air ambulance business or the fees it charges. The Director can make no determination as to what would constitute a reasonable fee for the transportation of the Petitioner by air ambulance. The air ambulance service is not regulated by the Department of Insurance and Financial Services and is not a participant in PRIRA reviews. The Director has no authority to require the air ambulance service to waive or adjust its charges.

BCBSM paid its maximum approved amount for the services and is not required to pay more. Consequently, the Director finds that BCBSM correctly processed the claims for the air ambulance service under the terms and conditions of the *Handbook*.

#### V. ORDER

The Director upholds BCBSM's final adverse determination of March 3, 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 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:



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Randall S. Gregg  
Special Deputy Director