

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. 149242-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 8th day of September 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 6, 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.* After a preliminary review of the information submitted, the Director accepted the request on August 13, 2015.

The Petitioner receives health care benefits through a group plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Premier Gold Benefits Certificate*. The Director notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. BCBSM submitted the material on August 19, 2015.

The case involves medical issues so it was assigned to an independent medical review organization which submitted its recommendation to the Director on August 26, 2015.

II. FACTUAL BACKGROUND

The Petitioner has Crohn's disease which was treated with the prescription drug Remicade (infliximab). Her physician ordered the Anser IFX diagnostic test to monitor her response to the Remicade. The test was performed on September 8, 2014, by Prometheus Laboratories, Inc. The charge for the test was \$2,500.00.

BCBSM denied coverage, saying the test was experimental or investigational for the medical management of the Petitioner's condition and therefore not a covered benefit. The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, BCBSM

issued a final adverse determination dated July 14, 2015, affirming its denial. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Was the Anser IFX test experimental or investigational for the medical management of the Petitioner's condition?

IV. ANALYSIS

BCBSM's Argument

In its final adverse determination, BCBSM wrote:

[T]o give your appeal full consideration, a board-certified M.D. in Family Practice reviewed the claim, your appeal, and [the Petitioner's] health care plan benefits for [BCBSM]. The physician determined that:

...According to Blue Cross Blue Shield of Michigan Medical Policy titled "Measurement of Serum Antibodies to Infliximab and Adalimumab", measurement of antibodies to either infliximab or adalimumab in a patient receiving treatment with either infliximab or adalimumab, whether alone or as a combination test which includes the measurement of serum infliximab or adalimumab levels, is considered experimental / investigational. The use of these tests has not been clinically proven to improve patient clinical outcomes or alter patient management. Therefore, we are not able to approve this request. Deny 8499.

Petitioner's Argument

In a letter dated August 1, 2015 accompanying the request for an external review, the Petitioner's authorized representative wrote:

We respectfully dispute all of the criteria that were used to deny Anser IFX testing for this patient. In our previous appeals we provided five peer-reviewed publications that address the importance of measuring levels of infliximab as well as antibodies to infliximab (ATI). There is an ever increasing body of evidence that demonstrates the impact that increasing levels of ATI can have on a patient's response to infliximab. Those publications, as well as the additional, published and peer reviewed literature listed below, clearly demonstrate that this technology cannot be considered unproven, experimental, nor not medically necessary. These, as well as many other publications provide support that the use of the data provided by this assay can be utilized by a clinician as "an effective management tool".

- Murthy S, Kevans D, Seow CH, et al. Association of serum infliximab and antibodies to infliximab to long-term clinical outcome in acute ulcerative colitis. *Gastroenterology*. 2012;142(5)(suppl1):S-388.

- Veres G, Kaplan JL, De Greef E, et al. New assay to detect infliximab levels and anti-infliximab antibodies from a single serum sample is useful in measuring efficacy of treatment with infliximab in children with IBD. *Gastroenterology*. 2012;142(5)(suppl 1):S-386.
- Kevans D, Murthy S, Iacono A, Silverberg MS, Greenberg GR. Accelerated clearance of serum infliximab during induction therapy for acute ulcerative colitis is associated with treatment failure. *Gastroenterology*. 2012;142(5)(suppl 1):S-385.
- Vande Casteele N, Cuypers L, Singh S, et al. Antibodies to infliximab can either be persistent or transient: a retrospective case-control study in IBD patients treated with infliximab maintenance therapy. *Gastroenterology*. 2012;142(5)(suppl 1):S-385. Velayos FS, Kahn JG, Sandborn WJ, Feagan BG. A test-based strategy is more cost effective than empiric dose-escalation for patients with Crohn's disease who lose responsiveness to infliximab [published online ahead of print January 25, 2013]. *Clin Gastroenterol Hepatol*. doi:10.1016/j.cgh.2012.12.035.
- Novel infliximab (IFX) and antibody-to-infliximab (ATI) assays are predictive of disease activity in patients with Crohn's disease (CD). *Gastroenterol Hepatol*. 2012;8(7)(suppl 4):3-4.

Director's Review

The *Blue Cross Premier Gold* certificate (page 141) excludes coverage for experimental treatment which is defined in the certificate as:

treatment that has not been scientifically proven to be as safe and effective for treatment of the patient's conditions as conventional treatment. Sometimes it is referred to as "investigational" or "experimental services."

The question of whether the Anser IFX test was experimental or investigational in the treatment of Petitioner's Crohn's disease was presented 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 reviewer is a physician who is board-certified in gastroenterology and has been in active practice for more than 18 years. The reviewer is familiar with the medical management of patients with the Petitioner's condition. The IRO reviewer's report included this analysis and recommendation:

[M]onitoring patients on infliximab with measurement of infliximab levels and antibodies to infliximab is not yet evidence-based and should be considered investigational. In general, infliximab levels correlate inversely with disease activity...[H]owever, the target level of infliximab necessary to achieve clinical benefit remains unknown. The target value has been investigated in one study and is likely between 3 and 7 ng/ml. However...there are no controlled data which have identified the optimal drug level and

the issue remains speculative....[I]ssues of how a patient is doing on the drug, whether the patient is responding or losing response and whether the patient is having severe adverse side effects, such as infusion reactions, are more important than drug level. To attempt to answer this question in the case of a patient who is failing therapy, one can set up a hypothetical 2 x 2 table categorizing drug levels as high or low and antibody levels as high or low. However...this algorithmic approach has not validated using prospectively controlled data.

Pursuant to the information set forth above and available documentation...the Anser IFX assay that the member underwent on 9/8/14 was experimental/ investigational for diagnosis and treatment of her condition. [Citations 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 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 Anser IFX test is experimental/investigational for the treatment of the Petitioner's condition and is therefore not a benefit under the terms of the certificate.

V. ORDER

The Director upholds BCBSM's final adverse determination of July 14, 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.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director