

**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. 149470-001**

**Blue Cross Blue Shield of Michigan,**  
**Respondent.**

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Issued and entered  
this 11<sup>th</sup> day of November 2015  
by Joseph A. Garcia  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

██████████ (Petitioner) was denied coverage by her health plan, Blue Cross Blue Shield of Michigan (BCBSM), for professional services she received during several visits to the hospital emergency room.

On October 26, 2015, the Petitioner filed a request with the Director of Insurance and Financial Services for an external review of those denials under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the case for review on November 2, 2015.

The Petitioner receives health care benefits through a group plan that is underwritten by BCBSM. The Director immediately 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 November 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's health care benefits are described in BCBSM's *Community Blue Group Benefits Certificate LG*<sup>1</sup> (the certificate).

The Petitioner was seen in the emergency room eight times from May 20, 2013, through August 31, 2014. The professional services charge for this care was \$3,860.00. BCBSM denied coverage because the treating physician was the Petitioner's spouse.

The Petitioner appealed BCBSM's denial through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated October 12, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

## III. ISSUE

Did BCBSM correctly deny the Petitioner's emergency room claims?

## IV. ANALYSIS

### Petitioner's Position

In a letter filed with the external review request, the Petitioner wrote:

This letter is a request for external review of a decision made by my insurance company, BCBS, to deny payment for my emergency department visits secondary to migraine headaches. The denial is based on the fact that the treating physician was my husband. . . . [My husband] is an emergency physician. . . . He works one third of all monthly scheduled shifts in this emergency department. Furthermore, he works two thirds of all the night shifts in this department. Between 9 pm and 7 am, he is the only provider available in the emergency department during these shifts.

Further, this is the only local medical facility which provides acute care for migraine exacerbation. My husband is an hourly employee of the hospital, so there is no personal financial incentive for him to be my provider. The cost of my treatment would be the same no matter which provider I were to see in the emergency department.

### BCBSM's Position

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<sup>1</sup> BCBSM form no. 679E, approved 05/14.

In its final adverse determination, BCBSM's representative explained its decision to the Petitioner:

. . . After review, I confirmed that the claims processed correctly. You remain responsible for the non-covered charges in the amount of \$3,860.00 for the emergency room services.

\* \* \*

Your provider submitted claims for eight dates of services from May 20, 2013, through August 31, 2014. The claims were initially processed as payable. The payments were recalled according to the terms of your coverage because the professional provider was your husband. . . .

\* \* \*

In your appeal and during your managerial level conference, you and your husband explained that your husband . . . is often the only provider available in the emergency room during much of each month. [Your husband] also noted that there is no other emergency room option within your county. While I understand your frustration, BCBSM must process claims under the terms of your coverage.

I understand that the outcome of my review is not favorable to you. Because we are bound by the provisions of coverage, we must maintain our claim determination. Please know that every consideration has been extended in this matter.

#### Director's Review

The language of the certificate is clear. In "Section 5: General Services We Do Not Pay For," it says (p. 129):

- Professional provider services that we do not pay for:

\* \* \*

— Self-Treatment by a professional provider and services given by the provider to parents, siblings, spouse or children [Underlining added]

It is undisputed that the Petitioner was treated each time in the emergency room by her husband. Therefore, under the terms of the certificate, those services are not covered. There is no exception in the certificate, not even if the Petitioner's husband was the only physician available in the emergency room at the time the Petitioner required care.

The Director finds that BCBSM's denial of the physician care provided by the Petitioner's husband was consistent with the terms and conditions of the certificate and rider.

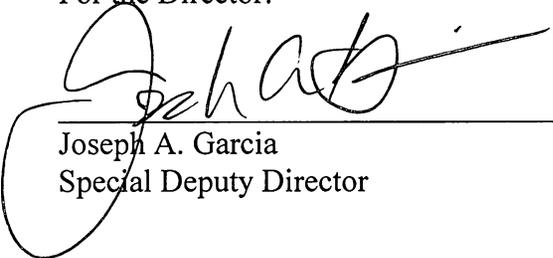
**V. ORDER**

The Director upholds BCBSM's final adverse determination of October 12, 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:



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Joseph A. Garcia  
Special Deputy Director