

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. 150043-001

Blue Cross Blue Shield of Michigan,

Respondent.

Issued and entered
this 21st day of October 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) is enrolled for health care benefits through a group plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). Her minor son, ██████████ also received health care benefits through that plan as the Petitioner's dependent.

██████████ was transported by air ambulance on May 22, 2015, following an injury.¹ BCBSM covered the service but paid the Petitioner less than the provider's charge when it processed the claim.

On September 24, 2015, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of BCBSM's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The initial request was incomplete but additional information was provided on October 2, 2015, and the Director accepted the request on October 9, 2015.

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 October 16, 2015.

¹ ██████████ died of his injuries a few days later.

This case involves a contractual issue. 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 LG²* (the certificate).

On May 21, 2013, [REDACTED] sustained a serious head injury and was taken to the emergency room at McLaren [REDACTED] in [REDACTED]. On May 22, 2015, it was determined that he needed to be transported to [REDACTED] in [REDACTED], for further treatment.

The air ambulance transport was provided by PHI Air Medical (PHI), an out-of-network, nonparticipating provider. The charge was \$30,489.00. BCBSM's "approved amount" for the service was \$6,679.42 and it paid that amount to the Petitioner who in turn paid it to PHI. The remainder of the charge, \$23,809.58, is in dispute.

The Petitioner appealed BCBSM's payment amount through its internal grievance process. BCBSM held a managerial-level conference on August 26, 2015, and issued a final adverse determination dated September 15, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did BCBSM correctly process the claim for the air ambulance transport?

IV. ANALYSIS

BCBSM's Argument

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

. . . I confirmed that our payment determination is appropriate. The provider, PHI Air Medical, is a nonparticipating provider. Nonparticipating providers are not obligated to accept our approved amount as payment in full. In this case, the provider reported charges totaling \$30,489.00. However, BCBS determined the approved amount of \$6,679.42 is the maximum payment for the patient's services. Therefore, additional reimbursement cannot be approved.

² BCBSM form no. 679E, effective 2015.

* * *

I understand that the patient did not have a choice in the selection of his provider and was unaware of the provider's participation status prior to receiving service from them. However, as referenced above, the provider is a nonparticipating provider and is not obligated to accept our approved amount as payment in full. The maximum payment available has been issued to the subscriber, and additional reimbursement cannot be approved.

Petitioner's Argument

In a letter dated September 21, 2015, included with the external review request, the Petitioner's authorized representative said:

. . . On May 22, 2015, McLaren Macomb authorized the transport of Alex to Beaumont Hospital Royal Oak, MI due to the severity of his medical condition. His family was only informed that he would be transported to Beaumont, but was not informed the hospital planned to air lift him rather than use a ground ambulance. At the time of service, Alex's family was deeply distraught, and his condition very grave. The family did not even think at the time to ask if the hospital meant air or ground ambulance, as they thought he was being transported by ground ambulance. Alex was transferred to Beaumont hospital, but sadly passed away a few days later.

Approximately two weeks later, [the Petitioner] received a statement from PHI Air Medical for air ambulance charges in the amount of \$30,489. [She] called McLaren to confirm that Alex had in fact been air lifted, as she believed up to this point he had been transported by ground ambulance.

* * *

We reviewed the Community Blue Benefit Guide, the SBC and the BAAG for Specialty Steel. According to the guide, the SBC and the BAAG, both in-network and out-of-network ambulance services are covered 100%. However, nowhere does it say that the "approved amount" only covers approximately 22% of air ambulance charges by BCBSM, leaving the member responsible for 78% of an egregious amount for a 17 mile distance between the two hospitals. As the Executive Office Manager of Specialty Steel Treating Inc., [the Petitioner] is more than familiar with the value of medical health coverage as she is directly involved in the benefit decision making for SST. However, how is that beneficial to a member when the carrier pays such a minimal amount towards the charges that it will result in a severe financial hardship? Not only has she suffered an immense, unrecoverable loss - the death of her son, she is now faced with having to fight to utilize the benefits that she has paid into for years, or face financial hardship trying to pay an exorbitant bill of over \$23,000.

[The Petitioner] did not have a choice as to which provider was selected to transport her son. She was not informed that the provider was non-participating and would balance bill her. She did not even know that an air ambulance service was utilized until she received a statement from PHI Air Medical a few weeks after the date of service. Based on the information she had previously received from BCBSM (during her renewal periods/open enrollments), she had no knowledge that BCBSM would pay only approximately 22% of the charges. Based on the BAAG and SBC, in-network and out-of-network ambulance providers are covered at 100%.

I am requesting that the situation be re-evaluated, and at a minimum, BCBSM negotiate a settlement with PHI Air Ambulance that is more reasonable and feasible. A \$23,809.58 balance for Mrs. Mackmin is neither reasonable nor feasible.

Director’s Review

Air ambulance transport is a benefit under the certificate when certain conditions are met (p. 22). There is no dispute in the record that the Petitioner met the criteria for air ambulance transport. The only dispute is over the amount BCBSM paid for the service.

The certificate (p. 20) says that BCBSM pays its “approved amount” for services that are covered in the certificate, including air ambulance transport. “Approved amount” is defined in the certificate (p. 142) as

[t]he lower of the billed charge or our maximum payment level for the covered service. Copayments and/or deductibles, which may be required of you, are subtracted from the approved amount before we make our payment.

According to the explanation of benefit payments dated July 7, 2015, the air ambulance transport was billed with two procedure codes. BCBSM’s maximum payment amount for each code was derived from the “Blue Cross Blue Shield of Michigan Ambulance Fees” schedule (effective January 1, 2015) and is shown here:

<u>Procedure Code</u>	<u>Description</u>	<u>Amount</u>
A0431	Ambulance service, conventional air services, transport, one way (rotary wing)	\$ 6,061.54
A0436	Rotary wing air mileage, per statute mile (17 miles @ \$36.34)	617.78
	Total	\$ 6,679.42

Because \$6,679.42 is lower than the provider's charge of \$30,489.00, it became BCBSM's "approved amount" for the transport. BCBSM pays its approved amount to both participating and nonparticipating providers. However, nonparticipating providers have not agreed to accept it as payment in full for services and may bill for any balance over the approved amount. The certificate (p. 121) explains the consequences when an out-of-network, nonparticipating provider is used:

If the out-of-network provider is nonparticipating, you will need to pay most of the charges yourself. Your bill could be substantial. After paying the provider, you should submit a claim to us. If we approve the claim, we will send payment to the member.

The Director understands that the Petitioner may not have had a choice in selecting the air ambulance provider. Nevertheless, there is nothing in the certificate or in law that requires BCBSM to pay more than its approved amount, even under the circumstances described in this case.

The Director finds that BCBSM correctly processed the air ambulance claim in accordance with the terms and conditions of the certificate.³

V. ORDER

The Director upholds BCBSM's September 15, 2015 final adverse determination.

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 sixty 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

³ This Order only addresses the issue of BCBSM's obligation under the certificate. The Director does not have the authority to determine who may have ultimate liability for the balance of the air ambulance provider's charge.