

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. 150834-001

Blue Cross Blue Shield of Michigan,

Respondent.

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Issued and entered  
this 14<sup>th</sup> day of December 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

██████████ (Petitioner) was denied coverage for a prescription drug by his health care insurer, Blue Cross Blue Shield of Michigan (BCBSM).

On November 10, 2015, he filed a request with the Director of Insurance and Financial Services for an external review of that denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* After a preliminary review of the material submitted, the Director accepted the request on November 18, 2015.

The Petitioner receives health care benefits, including prescription drugs, 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 19, 2015.

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 December 2, 2015.

**II. FACTUAL BACKGROUND**

The benefits are defined in BCBSM's *Simply Blue HSA Group Benefits Certificate with Prescription Drugs SG*<sup>1</sup> (the certificate).

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<sup>1</sup> BCBSM form no. 913F, effective 08/2015.

The Petitioner has low testosterone (“hypotestosteronism”). His doctor asked BCBSM to cover the injectable drug testosterone cypionate to treat his condition. BCBSM denied the request, saying the Petitioner did not meet its criteria for coverage.

The Petitioner appealed the denial through BCBSM’s internal grievance process. At the conclusion of that process, BCBSM affirmed its decision in a final adverse determination dated October 27, 2015. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly deny coverage for testosterone cypionate?

### IV. ANALYSIS

#### Petitioner’s Argument

In his request for external review, the Petitioner wrote:

I request insurance cover my testosterone injections. BCBS has denied coverage saying I need 2 symptoms related to testosterone deficiency. I told BCBS I have erectile dysfunction and a low sex drive along with loss of body hair. As shown in the enclosed test results, my testosterone levels have been low and below the normal range supporting my symptoms.

#### BCBSM’s Argument

In its final adverse determination to the Petitioner, BCBSM’s reviewer, a clinical pharmacist wrote:

... After review, the denial of prior authorization for Testosterone Cypionate is maintained because you do not meet the criterion for approval of Testosterone Cypionate. Therefore, prior authorization cannot be approved.

\* \* \*

A Clinical Pharmacist, RPh, reviewed your appeal and your health care plan benefits for Blue Cross Blue Shield of Michigan (BCBSM) and determined the following:

The coverage guidelines for your Customer Select Drug List benefit require criteria be met before coverage can be authorized. Our criteria for coverage of this medication, in patients with hypogonadism, require documentation (chart notes) of two documented symptoms of testosterone deficiency (for example loss of body hair or low bone mineral density). We have no record of at least two symptoms related to testosterone deficiency.

Further, our criteria for coverage of this medication, in patients with hypogonadism, require a record (chart notes) showing documentation of improvement in symptoms

specific to testosterone deficiency. We have no record (chart notes) that you have improved while on testosterone therapy.

### Director's Review

The certificate (p. 74) explains that for certain drugs, clinical criteria must be met before coverage will be authorized. BCBSM denied authorization on the basis that the Petitioner did not meet its criteria. The coverage criteria for testosterone cypionate are found in BCBSM's "Prior Authorization and Step Therapy Guidelines":

Male members who have a diagnosis of androgen deficiency confirmed by:

1. Two morning testosterone levels in the past year below normal range.
2. At least two signs or symptoms specific to testosterone deficiency.

Initial authorization: 1 year.

Renewal criteria:

1. Testosterone levels are at or below normal range.
2. Improvement in signs or symptoms specific to testosterone deficiency.

The question of whether testosterone cypionate is appropriate to treat the Petitioner was presented to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is board certified in urology, has been in active practice for more than 12 years, and is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

The results of the consultant's review indicate that this case involves a [REDACTED]-old male who has been diagnosed with hypotestosteronism. At issue in this appeal is whether testosterone cypionate is medically necessary for treatment of the member's condition.

The MAXIMUS physician consultant explained that the records provided for review confirm that the member has hypogonadism and has failed treatment with Axiron. The physician consultant also explained that testosterone cypionate injection is an appropriate, safe and cost effective treatment for hypogonadism. The consultant indicated that the member does meet the Health Plan's criteria for coverage of testosterone cypionate.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that testosterone cypionate is medically necessary for treatment of the member's 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 IRO's 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 coverage. MCL 550.1911(15). The Director can discern no reason why the IRO’s recommendation should be rejected in this case and adopts the IRO’s analysis.

The Director finds that the Petitioner meets BCBSM’s criteria for testosterone cypionate and therefore it is a medically necessary covered benefit.

**V. ORDER**

The Director reverses BCBSM’s October 27, 2015, final adverse determination.

BCBSM shall immediately cover the Petitioner’s testosterone cypionate injections, and shall, within seven days of providing coverage, furnish the Director with proof it 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, at this toll free telephone number (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.

Patrick M. McPharlin  
Director

For the Director:



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Randall S. Gregg  
Special Deputy Director