

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. 152241-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this *22nd* day of March 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On February 23, 2016, ██████████, authorized representative of her ██████████ (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.* The Director accepted the request on February 29, 2016.

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 *Simply Blue Group Benefits Certificate LG*. The Director notified BCBSM of the external review request and asked for the information used to make its final adverse determination. BCBSM provided its response on March 7, 2016.

To address the medical issue in this case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation on March 14, 2016.

II. FACTUAL BACKGROUND

The Petitioner is ██████ years old and has cerebral palsy, spastic tetra paresis, neuromuscular scoliosis, seizure disorder, and cognitive impairment. His parents requested that BCBSM provide coverage for a standing manual wheelchair. BCBSM denied coverage.

The Petitioner's mother appealed the denial through BCBSM's internal grievance process. BCBSM held a managerial-level conference and issued a final adverse determination December 21, 2015, affirming its decision. The Petitioner now seeks the Director's review of that adverse determination.

III. ISSUE

Did BCBSM correctly deny coverage for the standing wheelchair Petitioner requested?

IV. ANALYSIS

Respondent's Argument

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

Your son is covered under the *Simply Blue Health Savings Group Benefits Certificate for Large Groups (LG)*. **Section 3: What BCBSM Pays For** (Page 18) of the *Certificate* explains that only medical services determined to be medically necessary will be covered under your plan.

* * *

[A] board-certified M.D. in Internal Medicine reviewed the submitted documentation to determine if criteria for medical necessity was met and determined the following:

The documentation was reviewed. The doctor ordered a Superstand Standing Wheelchair for your ■ year old son who has cerebral palsy and neuromuscular scoliosis. A stander (i.e. standing table) may be approved as a weight bearing posture that helps the maturation of skeletal system in pre-pubertal skeletally maturing children (ages 15 months through 18 years) according to Blue Cross Blue Shield of Michigan policy "Standing Wheelchairs." However, BCBSM considers standers as not medically necessary for adults. According to the current BCBSM medical policy titled "Durable Medical Equipment," a stander does not meet the definition of durable medical equipment as it is not primarily and customarily used to serve a medical purpose. In addition, this is consistent with Medicare guideline "National Coverage Determination (NCD) for Durable Medical Equipment Reference List (280.1)." Therefore, we are unable to approve this request for a standing wheelchair.

Petitioner's Argument

In her request for external review, the Petitioner's mother wrote:

I have been trying to get a standing wheelchair for pre-authorization and payment for my son...who is twenty years old. Blue Cross Blue Shield of Michigan has denied the initial request submitted in August 2015 by the Standing Company (wheelchair provider) as well as my internal appeal submitted on November 18, 2015, due to the age of my son and their policy of what is considered to be durable medical equipment. I disagree with their denial as well as [my son's] doctors and physical therapist. I believe this is a covered benefit and I would like to request an external review of this case.

The Petitioner's mother also submitted a detailed letter from the Petitioner's physical therapist explaining why the standing wheelchair is needed.

Director's Review

BCBSM denied coverage based on its determination that the standing wheelchair is not medically necessary for the Petitioner. To evaluate that conclusion, the Director presented the issue 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 reviewer is a physician in active practice who is certified by the American Board of Physical Medicine and Rehabilitation. The IRO report included the following analysis and recommendation:

Question: Please evaluate BCBSM's claim that there are only anecdotal reports and no evidence-based studies finding that there are potential benefits for the over 19 age group. Is this still the current state of medicine with respect to standing wheelchairs for this age group?

Yes. The published medical literature with respect to interventions such as standing frames or standing wheelchairs to address bone health issues in the setting of severe neurological disorders, including cerebral palsy, is sparse and consists of anecdotal reports and preliminary studies with disparate and inconclusive results. There is as yet no high-grade evidence to support that use of this type of device reduces osteoporosis or fracture risk to a clinically significant degree in the setting of severe neurological disorders affecting the central nervous system. The published medical literature generally notes that targeted exercises can significantly enhance bone strength at loaded sites in children, but the effect on otherwise healthy adults is unclear. The general opinion regarding bone health in various paralyzed or immobilized clinical states is that there are numerous factors that contribute to accelerated diminution of bone health in these states, including the denervation of sclerotomes, humoral factors (alterations in gonadal hormones, calcium homeostasis), vitamin D deficiency, and the lack of pulling activity from muscles. There is also as yet no high-grade evidence to support that use of a standing wheelchair provides other clinically significant benefits with respect to health or functional outcomes in the setting of these types of conditions.

In addition, there is no evidence to support claims that a standing wheelchair improves pulmonary function, circulation, bowel or bladder function, muscle function, skin integrity, or bony health, or provides other health benefits in persons who are otherwise generally poorly mobile using their own body power. The enrollee in this case is at elevated risk for pressure ulcers due to his condition, but the standing feature on his wheelchair would not be expected to significantly improve his overall risk profile for pressure ulcers. The standing feature would potentially mitigate risk in some areas, but would also introduce new areas that would be at risk for pressure ulcer development.

Overall, a standing wheelchair is experimental/investigational for the currently proposed indication, inappropriate and not medically necessary for this enrollee. The proposed device would significantly compromise the accessibility of the wheelchair by introducing additional size and weight to the wheelchair and increasing its turning radius. The additional componentry for effectuating the standing position would also compromise the enrollee's self-propulsion efficiency by introducing more joints into the frame, where kinetic and propulsion energy would be dissipated as friction and heat, while also increasing the risk of wheelchair breakdown. Wheelchair breakdown has increased significantly as wheelchairs are being prescribed laden with additional componentry and features promising benefits that are unproven with respect to the end user, at the sacrifice of simplicity, efficiency and durability.

Question: If the use of standing wheelchairs is now an established practice, is such a device medically necessary in the Petitioner's case?

Standing wheelchairs are not an established practice. The standard of care for a patient such as this enrollee would be an optimally fitted and optimally weighted wheelchair that maximizes functional independence and accessibility, while appropriately providing a means for passive pressure relief as need be (e.g., recline and/or tilt). Therefore, for the reasons noted above, the requested standing wheelchair is not medically necessary for this enrollee.

Recommendation:

It is the recommendation of this reviewer that the denial issued by Blue Cross Blue Shield of Michigan for a standing wheelchair be upheld.

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 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 to reject the IRO's recommendation, finds the standing wheelchair is not medically necessary for the Petitioner and therefore is not a covered benefit.

V. ORDER

The Director upholds BCBSM's final adverse determination of December 21, 2015. BCBSM is not required to provide coverage for the standing wheelchair.

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