

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. 152713-001

Blue Cross Blue Shield of Michigan,
Respondent.

Issued and entered
this 7th day of April 2016
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for physical therapy visits by her health insurer, Blue Cross Blue Shield of Michigan (BCBSM).

On March 16, 2016, the Petitioner 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.* The Director accepted the request on March 23, 2016.

The Petitioner receives health care benefits through a group plan underwritten by BCBSM. The Director immediately notified BCBSM of the external review request and asked for the information used to make its final adverse determination. BCBSM responded on March 24, 2016.

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 *Simply Blue Group Benefits Certificate LG* (the certificate).

The Petitioner injured her shoulder in late summer 2014. She began physical therapy to rehabilitate it in January 2015 but after 14 visits her condition did not improve. In May 2015, her

physician recommended she undergo a left shoulder arthroscopy, which was performed on June 16, 2015.

The Petitioner resumed physical therapy after the surgery and had another 25 visits for a total of 39 in calendar year 2015. BCBSM covered 30 physical therapy visits, but denied coverage for a visit on August 24, 2015, saying it exceeded the 30-visit annual maximum.¹

The Petitioner appealed BCBSM's denial through its internal grievance process. At the conclusion of that process, BCBSM issued its final adverse determination dated February 15, 2016, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Is BCBSM required to cover the Petitioner's August 24, 2015, physical therapy visit?

IV. ANALYSIS

Petitioner's Argument

The Petitioner submitted an undated attachment along with her external review request that said:

I sustained a shoulder injury at the end of the summer in 2014. I began physical therapy in January 2015 to try to avoid additional costs and procedures after being on a waiting list. I completed 14 visits, but kept having setbacks. Unfortunately, I had to have surgery June 16, 2015, which required intensive additional physical therapy. I completed 16 visits that were covered, plus an additional 9 visits that were not covered. I am happy to report that the physical therapy has allowed me to make a full recovery.

I did everything BCBSM asked of me, trying to do so in the least evasive and least expensive manner possible. I am requesting that the 9 visits be covered. I am asking for a fair conclusion.

On August 25, 2015, the Petitioner's orthopedic surgeon wrote to BCBSM about the need for additional physical therapy:

During an office visit on 5/13/15, it was determined that [the Petitioner] had adhesive capsulitis, partial rotator cuff tear and impingement syndrome of the left shoulder, which would be most effectively treated with a left shoulder arthroscopy. During this procedure, performed on 6/16/15, a complete synovectomy, decompression, capsular release with manipulation and extensive debridement were performed.

¹ The Petitioner wants coverage for 39 physical therapy visits in 2015. However, only the August 24, 2015, visit was the subject of the internal grievance and addressed in BCBSM's final adverse determination, so this review will be limited to that date of service.

Due to the patient's current situation, I have advised that [the Petitioner] continue PT 2-3 times per week for the next 4-6 weeks. With physical examination of internal rotation of 20 degrees and forward flexion of 140 degrees, physical therapy will focus on improving her internal rotation. The amount of physical therapy was directly related to her symptoms, objective findings and the progression of the two.

Her physical therapy assessment dated 8/6/15 continues to note that long term goals are either progressing or being met. The recommendation of an additional two times per week for 4-6 weeks is both the physical therapist's recommendation as well as my own. Quality therapy can decrease the risk for potential further surgery in the future.

BCBSM's Argument

In its final adverse determination, BCBSM's representative told the Petitioner:

I reviewed our claim files and confirmed we previously processed claims and approved payment for 30 physical therapy visits provided to you. As 30 visits is the maximum number of visits allowed under your plan in a calendar year, claims for additional visits you received during the 2015 benefit period are not eligible for reimbursement. Charges for therapy services beyond the 30th visit remain your responsibility.

Furthermore, you submitted bill summaries for physical therapy services received from July 28, 2015 to August, 21, 2015, and August 26, 2015 to September 9, 2015. We have no record of previously receiving or processing claims for these service dates. Again, because the benefit maximum was previously met, the services are not eligible for reimbursement.

While I understand your concerns regarding the services you received, BCBSM must process claims as they are submitted and in accordance to your group's health care benefits.

Director's Review

The physical therapy benefit is described in the certificate (pp. 69-71):

We pay for:

- Medically necessary physical therapy services subject to the following:

* * *

- A maximum of 30 outpatient visits per member per year.

Important: See Note below about treatment dates and initial evaluations. This 30-visit maximum renews each calendar year. It includes all in-network and out-of-network outpatient visits, regardless of location (hospital, facility, office or home), for:

- Occupational therapy

- **Physical therapy (includes physical therapy by a chiropractor)**
- **Speech Therapy**
- **Chiropractic mechanical traction (when combined with all chiropractic manipulations)**

* * *

We do not pay for:

- More than 30 outpatient visits per member per calendar year, whether obtained from an in-network or out-of-network provider.

The certificate is clear: physical therapy is limited to 30 visits per calendar year. It is undisputed that BCBSM covered 30 visits for physical therapy, as it was obligated to do under the terms of the certificate. Although the Petitioner required more than 30 visits to treat her condition, nothing in the certificate or in law requires BCBSM to cover more than 30 therapy visits, even if additional visits are medically necessary.

The Director finds that BCBSM's denial of coverage for the August 24, 2015, physical therapy visit was in accord with the terms of the certificate because it exceeded the 30-visit maximum.

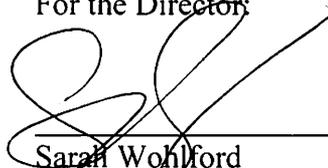
V. ORDER

The Director upholds Blue Cross Blue Shield of Michigan's final adverse determination of February 15, 2016.

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, P.O. Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:



Sarah Wohlford
Special Deputy Director