

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. 153278-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 14th day of June 2016
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 23, 2016, ██████████, authorized representative of ██████████ (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 review concerns a claim for air ambulance transportation.

The Petitioner receives health care benefits through a group plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Petitioner's health care benefits are defined in BCBSM's *Simply Blue Group Benefits Certificate LG*.

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 May 31, 2016. After a preliminary review of the information submitted, the Director accepted the request for external review.

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

On December 13, 2015, the Petitioner was transported from Hancock, Michigan to Grand

Rapids, Michigan by Valley Med Flight Inc. The charge was \$64,826.00. BCBSM approved and paid \$17,047.28 for the services. This left the Petitioner responsible for the balance of \$47,778.72.

The Petitioner appealed the amount paid by BCBSM through its internal grievance process. At the conclusion of that process, on April 1, 2016, BCBSM issued a final adverse determination affirming its decision. The Petitioner now seeks the Director's review of that final adverse determination.

III. ISSUE

Is BCBSM required to pay an additional amount for the Petitioner's December 13, 2015 air ambulance services provided by Valley Med Flight Inc.?

IV. ANALYSIS

Petitioner's Argument

In a March 3, 2016 letter to BCBSM the Petitioner's authorized representative, an employee of Valley Med Flight Inc., wrote:

[The Petitioner] required pediatric intensivist and pediatric ICU services, as a result he was transported to the closest facility, Devos Children's Hospital, that could render care. According to Section 2719A of the Affordable Care Act the services provided are considered "pre-emergent" services; therefore, your member should not be penalized for receiving the necessary medical services needed to appropriately and safely treat them for the best clinical outcome. As a non-contracted provider we are under no obligation to accept a reduced payment and will not honor any discounted allowable, leaving your member responsible for any unpaid balance.

We request that you reprocess this claim for an additional payment of \$47,778.72.

BCBSM's Argument

In its final adverse determination to the Petitioner's authorized representative, BCBSM's representative stated:

After review, I confirmed the maximum payment available (\$17,047.28) was issued to Valley Med Flight. Additional payment cannot be approved.

* * *

Page 18 of the *Certificate* explains that we pay our approved amount for the services you receive that are covered in this certificate. Page 140 of the *Certificate* defines the approved amount as the lower of the billed charge or our maximum payment level for the covered service. Copayments and/or coinsurance and deductibles, which may be required of you, are subtracted from the approved

amount before we make our payment. Our reimbursement of \$17,047.28 is the full allowed amount for procedure codes A0435 (fixed wing air mileage, per statute mile) and A0430 (ambulance service, conventional air services, transport, one way [fixed wing]).

As you are aware, Valley Med Flight, Inc., does not participate with BCBSM. Page 155 of the Certificate explains, physicians and other health care professionals, or hospitals and other facilities or programs that have not signed a participation agreement with BCBSM to accept the approved amount as payment in full.

Based on this and the information provided above, our maximum reimbursement in the amount of \$17,047.28 was previously issued to Valley Med Flight, Inc. and no additional payment can be approved.

Director's Review

Air ambulance transport is a covered benefit under the *Simply Blue* certificate (page 20). There is no dispute that the Petitioner met the criteria for the service. The only dispute is over the amount paid by BCBSM for the service.

The certificate (page 18) says that BCBSM pays its "approved amount" for services covered under the certificate, including air ambulance transport. "Approved amount" is defined in the certificate (page 140) as

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

In this case, BCBSM's maximum payment level for the air ambulance service was \$17,047.28. Because that amount is lower than the billed charge from Valley Med Flight, Inc. it became BCBSM's approved amount.

Valley Med Flight, Inc. is not a participating provider, i.e., it has "not signed a participation agreement with BCBSM to accept the approved amount as payment in full" (certificate, page 140). Consequently, Valley Med Flight, Inc. may bill the Petitioner for the difference between BCBSM's approved amount and its charge. The *Simply Blue* certificate (pages 8 and 118) says:

Nonparticipating providers have not signed an agreement and can bill you for any differences between their charges and our approved amount.

There is nothing in the certificate or in state law that requires BCBSM to pay more than its approved amount, even when the service is provided on an emergency basis, or there was no participating provider available, or the patient had no choice in which provider was used.

The Petitioner's representative cited section 2719A of the Patient Protection and

Affordable Care Act, a federal statute, in support of the argument that BCBSM should pay the full amount charged by Valley Med Flight, Inc. However, the cited provision of the Affordable Care Act concerns an individual's selection of a primary care provider and treatment in a hospital emergency department. These provisions are not relevant to a dispute involving air ambulance services.

In this case, BCBSM paid its approved amount for the Petitioner's air ambulance services and is not required to pay any additional amount. The Director finds that BCBSM's payment for the Petitioner's air ambulance transport was in accord with the terms and conditions of the certificate.

V. ORDER

The Director upholds BCBSM's final adverse determination of April 1, 2016. BCBSM is not required to pay an additional amount for this care.

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