

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. 153621-001-SF

County of Ionia, Plan Sponsor  
and  
Blue Cross Blue Shield of Michigan, Plan Administrator  
Respondents

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Issued and entered  
this 13<sup>th</sup> day of June 2016  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On May 10, 2016, ██████████ (Petitioner) filed a request for external review with the Department of Insurance and Financial Services, appealing a claim denial issued by Blue Cross Blue Shield of Michigan (BCBSM), the administrator of the Petitioner's health benefit plan which is sponsored by the County of Ionia.

The request for external review was filed under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.* Act 495 requires the Director to provide external reviews to a person covered by a self-funded health plan that is established or maintained by a state or local unit of government. The Director's review is performed "as though that person were a covered person under the Patient's Right to Independent Review Act." (MCL 550.1952)

The Petitioner receives health care coverage through the County of Ionia, a self-funded health benefit plan. BCBSM's *Simply Blue HSA Group Benefits Certificate with Prescription Drugs ASC* (the certificate) sets forth the medical benefits provided under this plan.

On May 17, 2016, after a preliminary review of the information submitted, the Director accepted the Petitioner's request for external review. The Director notified BCBSM of the appeal and asked BCBSM to provide the information used to make its final adverse determination. BCBSM furnished its response on May 24, 2016.

This case involves medical issues so it was assigned to an independent review organization, which submitted its recommendation to the Director on May 31, 2016.

## II. FACTUAL BACKGROUND

The Petitioner is 53 years old and has cancer of the appendix. As part of her ongoing treatment, her oncologist recommended cytoreductive surgery and hyperthermic intraperitoneal chemotherapy which were performed on October 1, 2015. The charges for those services (procedure codes: 44160 and 96549) totaled \$8,624.00.

BCBSM denied coverage for the surgery and chemotherapy ruling that they were not medically necessary for the treatment of the Petitioner's condition.

The Petitioner appealed BCBSM's denial through its internal grievance process. BCBSM held a managerial level conference on April 5, 2016, and issued a final adverse determination dated April 29, 2016, affirming its denial. The Petitioner now seeks the Director's review of that adverse determination.

## III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's October 1, 2015, surgery and chemotherapy services?

## IV. ANALYSIS

### BCBSM's Argument

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

The surgical and chemotherapy services you received are not covered benefits under the terms of your Plan as they do not meet the criteria for medical necessity. Therefore, payment cannot be approved.

\* \* \*

To ensure all consideration was given to your appeal, a medical consultant, a board-certified M.D. in General Surgery, reviewed your claim, your appeal, and your health care plan benefits for BCBSM. Our medical consultant determined:

Per BCBSM medical policy, "Cytoreductive Surgery and Perioperative Intraperitoneal Chemotherapy," to qualify as medically necessary the patient must meet all of the following criteria: a diagnosis of either pseudomyxoma peritonei (PMP), or diffuse malignant peritoneal mesothelioma confirmed by the treating physician; the patient must be able to tolerate the extensive cytoreductive surgery and hyperthermic intraperitoneal chemotherapy; peritoneal disease must be potentially completely resectable or significantly

reduced; there must be no metastases to other organs or to the retroperitoneal space. Medical Policy Exclusions: a diagnosis of peritoneal carcinomatosis from other forms of gastrointestinal cancer, including colorectal or gastric cancer; metastatic spread to distant organs outside the peritoneal cavity, Pulmonary, cardiac, renal, hepatic, central nervous system, metabolic or bone marrow dysfunction; active viral, bacterial or fungal infections. Per the reviewed documentation the patient did not have a diagnosis of pseudomyxoma peritonei or malignant peritoneal mesothelioma, and does not meet the criteria.

Based on the medical consultant's determination that the surgical and chemotherapy services provided do not meet criteria to be considered medically necessary to treat your condition, together with the terms of your coverage stating that services must be medically necessary to be covered, we must maintain our payment denial.

### Petitioner's Argument

In a letter to BCBSM dated March 12, 2016, the Petitioner wrote:

I am disputing the HIPEC (\$6,000) and the removal colon & term ileum w/ileocolostomy (\$2,624). The reason for this dispute is Blue Cross Blue Shield states that the HIPEC procedure needs to have a code entered as simply putting in HIPEC does not tell them what exact procedure took place. In reference to the dispute of the colon, I am disputing this due to the fact that my insurance contract does not indicate it to be a one-time removal of cancer. I have had two surgeries involving the colon and both times I have had cancer. It is my belief that you can't deny insurance coverage when there was cancer during both surgeries.

### Director's Review

The question of whether the Petitioner's surgical and chemotherapy services were medically necessary 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 reviewer is a physician in active practice who is certified by the American Board of Colon and Rectal Surgery and is published in peer reviewed medical literature. The IRO reviewer's report included the following analysis:

It is the determination of this reviewer that the enrollee's surgical and chemotherapy services performed on October 1, 2015 were medically necessary for the treatment of her condition.

\* \* \*

It is the determination of this reviewer that the services were performed in accordance with generally accepted standard(s) of medical practice and considered clinically appropriate to treat the enrollee's condition.

### **Clinical Rationale for the Decision:**

Goblet cell carcinoid is an enigmatic and rare tumor involving the appendix almost exclusively. Since its identification in 1969, understanding of this disease has evolved greatly, but issues regarding its histogenesis, nomenclature and management are still conjectural. Various other names have been used for this entity, such as adenocarcinoid, mucinous carcinoid, crypt cell carcinoma, and mucin-producing neuroendocrine tumor, although none have been found to be completely satisfactory or universally accepted. The tumor is thought to arise from pluripotent intestinal epithelial crypt-base stem cells by dual neuroendocrine and mucinous differentiation. [RoyP, Chetty R. Goblet cell carcinoid tumors of the appendix: An overview. World J Gastrointest Oncol. 2010 Jun 15; 2(6): 251-258] Goblet cell carcinoid tumor of the appendix is a rare tumor or class of tumors, which have not been firmly classified, and share many phenotypic characteristics with the pseudomyxoma peritonei, notably the abundance of mucus component. They originate from neuroendocrine cells. Goblet Cell Carcinoid of the appendix does not belong to the colorectal cancer category of tumors which are adenocarcinomas or originate from the colonic epithelium.

According to Dr. [REDACTED], "Adenocarcinoid (goblet cell carcinoid) of the appendix is similar to pseudomyxoma peritonei. The mucinous tumor from the adenocarcinoid distributes itself around the abdomen in a very similar fashion to pseudomyxoma peritonei. However, this tumor is much more aggressive than the tumor in pseudomyxoma peritonei. Symptoms of this type of cancer often resemble those of acute appendicitis. The exact cause of adenocarcinoid of the appendix is not known." [REDACTED]PH. Pseudomyxoma Peritonei. National Organization for Rare Disorders. 2015.] Dr. [REDACTED] is the authority in the management of peritoneal surface malignancies. In the cited publication Dr. [REDACTED] considers the goblet cell adenocarcinoid to be similar to the pseudomyxoma peritonei, although much more aggressive. Based on Dr. [REDACTED] expert opinion that the two tumors are very similar, and having knowledge that the CRS-HIPEC is accepted treatment of the pseudomyxoma peritonei, both share the same treatment. Since goblet cell carcinoid of the appendix is very aggressive, the treatment ought to be an aggressive one, which the CRS-HIPEC certainly is, especially if the patient is otherwise healthy, has a good performance status, and has made an informed decision to fight for her life.

While admittedly palliative in nature, CRS complemented by HIPEC is clearly appropriate, as peritoneal carcinomatosis leads to intestinal obstruction, abdominal pain, vomiting, ascites, respiratory difficulties, and lower extremity swelling. All of these complications are difficult and often impossible to palliate with medical treatment, and occasionally lead to futile surgeries prompted by the human desire to provide some symptomatic relief. According to virtually any article in the medical literature, CRS-HIPEC offers a better quality of life, both physically and emotionally, and increases survival in selected patients.

The enrollee had undergone resection of the primary malignancy followed by post-operative adjuvant chemotherapy, after which there was a significant amount of residual tumor load that had failed to respond to the above mentioned treatment modalities. She had exhausted the common treatment options and was faced with the choice of undergoing an aggressive surgical/medical treatment, continuing the intravenous chemotherapy treatment, which was ineffective, or undergoing no

treatment at all. Simple observation or additional intravenous chemotherapy would have been futile and associated with the usual side effects, which affect negatively the quality of life. Treatment with CRS-HIPEC has been shown to improve survival and quality of life in selected patients. The enrollee had exhausted the common treatment options, was still in overall good health, had a good performance status, was physically able to tolerate the aggressive cancer treatment, and had no evidence of distant metastatic disease or other conditions which would have affected life expectancy. The enrollee was an acceptable candidate because of failure of response to postoperative intravenous chemotherapy and the availability of an additional chemotherapy delivery system directly to the tumor surface, and the timing of the surgery was appropriate. The treating physician made an ethical decision in offering and executing the CRS-HIPEC option to the enrollee.

Based on the documentation submitted for review and current medical literature, the CRS-HIPEC, performed for stage 4 adenocarcinoid (goblet cell carcinoid) of the appendix with the neoplastic load being limited to the peritoneal cavity, was medically and ethically appropriate. Therefore, the surgical and chemotherapy services performed on October 1, 2015 were 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 the surgical and chemotherapy services performed on October 1, 2015 be overturned.

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 extensive experience, expertise, and professional judgment. Further, 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 that the surgery and chemotherapy (procedure codes: 44160 and 96549) performed on October 1, 2015, were medically necessary to treat the Petitioner's condition and are therefore covered benefits under BCBSM's *Simply Blue HSA Group Benefits Certificate*.

**V. ORDER**

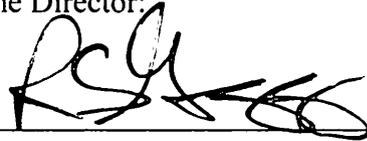
The Director reverses BCBSM's final adverse determination of April 29, 2016. BCBSM shall immediately provide coverage for the Petitioner's October 1, 2015, treatment and shall, within seven days of providing coverage, furnish the Director with proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding its implementation to the Department of Insurance and Financial Services, Health Care Appeals Sections, 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:

A handwritten signature in black ink, appearing to read 'RSG', is written over a horizontal line.

Randall S. Gregg  
Special Deputy Director