

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. 153695-001

Blue Cross Blue Shield of Michigan,
Respondent.

Issued and entered
this 6th day of June 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was transported by air ambulance in January 2016. He was dissatisfied with the amount paid for that service by his health insurer, Blue Cross Blue Shield of Michigan (BCBSM).

On May 16, 2016, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of BCBSM's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the case for review on May 23, 2016.

The Petitioner receives health care benefits through an individual 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 responded on May 27, 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 defined in the *Blue Cross Premier Silver Certificate* (the certificate).

The Petitioner was transported within Michigan from Escanaba to Marquette by air ambulance

on January 31, 2016. Valley Med Flight, the air ambulance provider, does not participate with BCBSM. The charge for the transport was \$33,109.00. BCBSM approved and paid \$10,918.49 for this service. The Petitioner was left responsible for the balance of \$22,190.51.

The Petitioner appealed the amount paid by BCBSM through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated April 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 pay an additional amount for the Petitioner's air ambulance transport?

IV. ANALYSIS

Petitioner's Position

In an April 27, 2016, letter filed with the external review request, the Petitioner's authorized representative wrote:

[The Petitioner] required specialty services, as a result he was transported to the closest facility, Marquette General 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.

We request that you reprocess this claim for an additional payment of \$22,190.51.

BCBSM's Position

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

. . . After review, I confirmed that the maximum payment available (\$10,918.49) was issued to Valley Med Flight. Additional payment cannot be approved.

* * *

Page 21 of the *Certificate* explains that we pay our approved amount for the services you received that are covered in this certificate. Page 163 of the *Certificate* defines approved amount as the lower of the billed charges or our maximum level for covered service. . . . Our reimbursement of \$10,918.49 is the full allowed amount for procedure codes A0431 (Ambulance, conventional air, rotary wing, one way) and A0436 (Ambulance, rotary wing air mileage, per statute mile).

As you are aware, Valley Med Flight, Inc., does not participate with BCBSM. Page 181 of the *Certificate* explains, physicians and other health care professional, 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 \$10,918.49 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 certificate (pp. 24 - 25). 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 (p. 21) says that BCBSM pays its "approved amount" for services covered under the certificate, including air ambulance transport. "Approved amount" is defined in the certificate (p. 163) 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 \$10,918.49. Because that amount is lower than the billed charge from Valley Med Flight, it became BCBSM's approved amount.

Valley Med Flight 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, p. 181). Consequently, Valley Med Flight may bill the Petitioner for the difference between BCBSM's approved amount and its charge. The certificate (p. 137) says:

If the nonpanel provider is **nonparticipating**, you will need to pay most of the charges yourself. Your bill could be substantial. . . .

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.

In this case, BCBSM paid its approved amount for the Petitioner's January 31, 2016, 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 dated April 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, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin,
Director

For the Director:

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

Randall S. Gregg
Special Deputy Director