

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. 154086-001

Blue Cross Blue Shield of Michigan,

Respondent.

Issued and entered
this 18 day of July 2016
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 13, 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 an individual plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Petitioner's health care benefits are defined in BCBSM's Blue Cross Premier Silver Certificate (the certificate).

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 June 20, 2016. The Director accepted the case for review on June 20, 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 was transported from Laurium, Michigan to Wausau, Wisconsin

by air ambulance on February 8, 2016, by Valley Med Flight, Inc., a provider that does not participate with BCBSM. The amount charged for this care was \$45,227.00. BCBSM approved and paid \$14,157.93 for this service. This left the Petitioner responsible for the balance of \$31,069.07.

The Petitioner appealed the amount paid by BCBSM for the air ambulance transportation through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated May 9, 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 a June 7, 2016 letter filed with the external review request, the Petitioner's representative wrote:

[The Petitioner] required specialty cardiology services, as a result she was transported to the closest facility, Wausau 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 \$31,069.07.

BCBSM's Position

In its final adverse determination to the Petitioner, BCBSM stated:

I reviewed the appeal request, the claim, and your health care plan benefits. Based on this review, I confirmed the maximum payment allowed (\$14,157.93) was issued to the provider. Our approved amount is the maximum benefit available. As such, the payment-level is maintained.

Valley Med Flight, Inc. is an out-of-network nonparticipating provider. The provider reported charges totaling \$45,227.00. We paid the maximum approved amount of \$6,746.73 for the transport service (procedure code A0430) and \$7,411.20 for the mileage (procedure code A0435) to the

provider. Our payment for advanced life support routine disposable supplies (procedure code A0398) is considered inclusive to the other services reported and separate reimbursement is not warranted.

You are covered under the Blue Cross Premier Silver Benefits Certificate (Form No. 603F-State Approved 8/15-Federal Approval 10/15 -Effective 2016). As indicated on Page 25 of the Certificate, air ambulance services are covered when transport by an air ambulance is required. The appeal is regarding the approved amount for the reported services. Page 13 of the Certificate outlines the patient responsibility for covered services as follows:

You have PPO coverage under this Certificate. PPO coverage uses a "Preferred Provider Organization" provider network. What you must pay depends on the type of provider you choose. If you choose an "in-network" provider, you most often pay less money than if you choose an "out-of-network" provider.

Out-of-Network Nonparticipating Providers

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

We realize when an emergency situation occurs you need to seek care from the nearest provider, who may not always be a Blue Cross Blue Shield network provider. In this case, \$14,157.93 represents the maximum approved amount. Therefore, additional reimbursement cannot be made.

Director's Review

Air ambulance transport is a covered benefit under the Premier Silver certificate (page 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 (page 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 (page 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 \$14,157.93. 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 182). Consequently, Valley Med Flight, Inc. may bill the Petitioner for

the difference between BCBSM's approved amount and its charge. The Premier Silver certificate (page 13) says:

Nonparticipating providers can bill you for the amount that is more than what we pay.

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 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 services was in accord with the terms and conditions of the certificate.

V. ORDER

The Director upholds BCBSM's final adverse determination of May 9, 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:



Joseph A. Garcia
Special Deputy Director