

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. 154254-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 12th day of July 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 21, 2016, Dr. ██████████, authorized representative of his patient ██████████ (Petitioner), filed a request for external review with the Director of Insurance and Financial Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

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

The Director notified BCBSM of the external review and requested the information used in making its adverse determination. After a preliminary review of the material received, the Director accepted the case on June 28, 2016. BCBSM provided its response on July 5, 2016.

This case presents an issue of contractual interpretation. 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 physician prescribed Cialis 5mg tablets and requested that BCBSM preauthorize coverage for its use. BCBSM denied the request.

The Petitioner appealed the denial through BCBSM's internal grievance process. BCBSM maintained its denial and issued its final adverse determination on May 23, 2016. The Petitioner now seeks a review of that determination from the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the prescription drug Cialis?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, BCBSM stated that coverage was denied because the drug is excluded from coverage under the Petitioner's drug plan. The denial letter also indicates that Cialis is considered a lifestyle drug and drugs used for erectile dysfunction are excluded.

Petitioner's Argument

In a letter of appeal to BCBSM dated April 8, 2016, the Petitioner's physician wrote:

I'm the attending medical physician for [REDACTED] who's been under my medical care for the past decade. This letter is in response to the recent denial of his Cialis 5 mg tablets used on a daily basis. Mr. [REDACTED] has a very significant past medical history of prostate cancer which was treated with radiation therapy several years ago, an episode of bacterial endocarditis, diabetes, hypertension and chronic nephrolithiasis which all have contributed to his chronic erectile dysfunction symptoms over the last several years. He's been on Cialis 5mg [tablets] on a daily basis the last few years which has resulted in a marked improvement of his erectile dysfunction symptoms. In my opinion, its continued use is a medical necessity given his past history and successful results with this medication.

Director's Review

The *Simply Blue* HSA certificate, on pages 83-84, includes this provision:

- **Prescription Drugs Not Covered**

We will not pay for the following:

* * *

- Anything other than covered drugs and services
* * *
- Lifestyle drugs, such as drugs used for weight loss or erectile dysfunction

BCBSM's May 2016 Prior Authorization and Step Therapy Guidelines which indicates lifestyle drugs for erectile dysfunction are excluded under the prescription drug benefits. Page 11 also lists Cialis as non-covered under the Custom Select Drug list.

The Petitioner's physician argues that continued use of Cialis is medically necessary because it has been used to successfully treat the Petitioner's erectile dysfunction. While that may be true, coverage for the prescription drug Cialis is specifically excluded from BCBSM's list of approved drugs.

The Director finds that BCBSM's denial of prescription drug coverage for Cialis is consistent with the terms of the certificate, prior authorization and step therapy guidelines and BCBSM's custom select drug list.

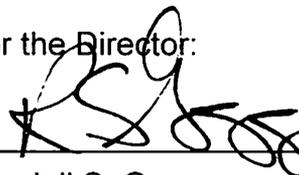
V. ORDER

BCBSM's May 23, 2016 final adverse determination is upheld. BCBSM is not required to provide prescription drug coverage for Cialis.

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 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