

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
Before the Director of Insurance and Financial Services

In the matter of:

██████████  
Petitioner

v

Blue Care Network of Michigan  
Respondent

File No. 149212-001

Issued and entered  
this 17<sup>th</sup> day of September 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On August 5, 2015 ██████████ (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 request was incomplete; it was unsigned. The Petitioner provided a completed and signed form on August 28, 2015.

The Petitioner receives health care benefits under a plan from Blue Care Network of Michigan (BCN), a health maintenance organization. The benefits are defined in BCN's *Classic for Large Groups* certificate of coverage. The Director notified BCN of the external review request and asked for the information used to make its final adverse determination. BCN responded on September 2, 2015. The Director accepted the request on September 4, 2015.

The issue in this external review can be decided based on an analysis of the contract that defines the Petitioner's health care benefits. The Director reviews contractual issues under MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

**II. FACTUAL BACKGROUND**

The Petitioner injured his neck in an automobile accident several years ago. Beginning in 2012, he received treatment from ██████████ a chiropractor. ██████████ is not a BCN participating provider.

The Petitioner's BCN coverage began in October 2012. His coverage under BCN's *Classic for Large Groups* certificate of coverage began on December 1, 2014. BCN approved coverage for Dr. Mitchell's treatment, most recently for the period August 1, 2014 through December 31, 2014.

When it came time to renew the request for coverage, BCN denied the request. The Petitioner appealed the denial through BCN's internal grievance process. At the conclusion of this process, BCN issued a final adverse determination dated June 5, 2015, upholding its denial. The Petitioner now seeks a review of the adverse determinations from the Director.

### III. ISSUE

Did BCN properly deny coverage for the Petitioner's out of network chiropractic care?

### IV. ANALYSIS

#### Petitioner's Argument

In his request for an external review, the Petitioner wrote:

I have been treated by [REDACTED] for a number of years, even before we became covered by BCN. As my insurance changed to BCN my primary care physician gave me a referral to be treated by [REDACTED] BCN subsequently approved treatment with [REDACTED]. Then several months later, when it was time to renew the referral BCN decides to change their stance on continued coverage. One of the reasons for denial cited by a BCN representative was that [REDACTED] office was located too far from my home. I don't understand why location has any bearing on the matter as BCN does not pay mileage or gas. My treatment by [REDACTED] stems from an auto accident which happened years ago, due to this, my auto insurance picks up the majority of the costs associated with my care.

...I have been going to [REDACTED] for many years. He is ultimately familiar with my injuries and body, he is familiar with my case and auto adjusters, as well as having a working relationship with my other physicians. As my main concern is a neck injury I do not trust other chiropractors to adjust my neck, which is very painful. I have been to other chiropractors prior to [REDACTED] and I did not feel comfortable with the level of care I received, which is why I changed chiropractors. Also because of being happy with all my current physicians is why I drive a fairly long distance to see each of them. I wish to appeal the prior decision and denial and wish to have an outside review, with the hopes of this getting rectified.

Respondent's Argument

In its final adverse determination, BCN stated that it denied coverage because the Petitioner's certificate of coverage requires that he use a network provider and his chiropractor is not in BCN's provider network.

BCN has acknowledged that it had previously approved coverage for [REDACTED] treatment. However, in a letter to the Petitioner dated April 9, 2015 BCN stated that the services of [REDACTED] had been approved in error.

Director's Review

The *Classic for Large Groups* certificate (page 27) does provide coverage for spinal manipulation when "provided by a BCN Participating Chiropractor or Osteopathic Physician when the service is referred by your Primary Care Physician and Preauthorized by BCN." In addition, the certificate, on page 58, states:

Except for Emergency care as specified in Section 8 health, medical and hospital services listed in this Certificate are covered only when:

- Provided by a Participating Provider ;and
- Preauthorized by BCN for select services

The Petitioner's chiropractor does not participate with BCN and BCN did not authorize chiropractic care after December 2014. While BCN covered [REDACTED] services in the past, BCN is not required to continue that coverage when it is inconsistent with the provisions of Petitioner's certificate of coverage. (It is not disputed that there are chiropractors available in-network to treat the Petitioner's condition although the Petitioner would prefer to be treated by [REDACTED])

In conducting reviews under the Patient's Right to Independent Review Act, the Director is limited to resolving questions of medical necessity and determining whether an insurer's final adverse determination is consistent with the terms of the relevant policy or certificate of coverage. See MCL 550.1911(13). Despite BCN's earlier approval, [REDACTED] treatment is not a covered benefit because [REDACTED] is not a participating provider.

The Director finds that BCN's denial of coverage for Petitioner's treatment by an out-of-network provider was consistent with the terms and conditions of the *Classic for Large Groups* certificate of coverage.

**V. ORDER**

The Director upholds BCN's June 5, 2015, final adverse determination.

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:



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Randall S. Gregg  
Special Deputy Director