

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. 150680-001

Blue Care Network of Michigan,

Respondent.

Issued and entered
this 24th day of November 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) had an endoscopy. He thought the procedure should be covered with no cost sharing but his health plan, respondent Blue Care Network of Michigan (BCN), applied a portion of its approved amount for the procedure to the Petitioner's deductible.

On November 2, 2015, the Petitioner filed a request with the Director of Insurance and Financial Services seeking an external review of BCN's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner is enrolled for individual health care coverage through BCN, a health maintenance organization. The Director immediately notified BCN of the external review request and asked for the information it used to make its adverse determination. BCN responded on November 3, 2015.¹ After a preliminary review of the information submitted, the Director accepted this request on November 9, 2015.

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.

¹ BCN submitted additional information on November 9, 2015.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in BCN's *Certificate of Coverage for Individuals*² (the certificate).

The Petitioner had an upper endoscopy on May 7, 2015. The outpatient procedure was performed by a network provider. BCN's approved amount for the procedure was \$1,774.71. It applied \$1,492.77 of that amount to the Petitioner's annual deductible and then paid the provider \$281.94.

The Petitioner, believing the service was not subject to the deductible, appealed BCN's decision through its internal grievance process. At the conclusion of that process, BCN issued a final adverse determination on September 28, 2015, affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Was the Petitioner's upper endoscopy subject to the deductible?

IV. ANALYSIS

Petitioner's Argument

The Petitioner believes that the upper endoscopy was not subject to the deductible. In his request for external review, he wrote:

I had an upper endoscopy done on 5-7-2015 as recommended by my doctor. Blue Care did not pay because my Barrett's Esophagus was diagnosed previously, it wasn't a necessary diagnostic procedure. I have enclosed 2 letters from my doctor stating the necessity of the procedure. . . . Blue Care told me that without the history of Barrett's they would have paid which to me make no sense, treating stomach cancer would cost a lot more. I have appealed twice to Blue Care Network and turned down both times.

In a June 12, 2015, letter submitted with the external review request, the Petitioner's physician wrote:

This letter is to show medical necessity for the Upper Endoscopy Procedure and biopsy completed 5/7/15.

[The Petitioner] is being followed by me due to history of Barrett's Esophagus. Due to the change in the lining the esophagus it is recommended that patients

² Dated January 1, 2015.

have follow up upper endoscopy to evaluate for presence of Barrett's along with biopsy to evaluate for dysplasia. Barrett's Esophagus can place a person at risk for dysplasia.³

BCN's Argument

In its final adverse determination, BCN explained to the Petitioner:

The services billed were for diagnostic and not preventive services. According to your benefit certificate, you have a 30% coinsurance after deductible for outpatient diagnostic or therapeutic services. Your annual deductible is \$3,300 per family per calendar year. Therefore, the deductible amounts remain your responsibility.

Director's Review

The federal Patient Protection and Affordable Care Act requires most health plans, including the Petitioner's, to cover certain preventive care services without any patient cost sharing. For men, those preventive care services are the ones recommended by the United States Preventive Services Task Force (USPSTF) with a rating of A or B.⁴

An upper endoscopy is not one of the services the USPSTF has given an A or B rating. Therefore, BCN is not required to provide it with no cost sharing.

The certificate is amended by the *Medical Cost Sharing Rider Silver 70* (the rider). The rider established a \$3,300.00 family deductible. The rider explains that some covered services are not subject to the deductible, but an upper endoscopy is not one of them:

The Deductible applies to all Covered Services *except*:

- Preventive Services as defined by the Affordable Care Act and in your Certificate of Coverage;
- Office visits provided by the Member's Primary Care Physician;

Note: Only the PCP office visit Copayment is exempt from the Deductible. Other services received in the Primary Care Physician office apply towards the Deductible.

- Laboratory and pathology tests;
- Urgent care visits; and
- Pre-natal visits.

³ BCN does not dispute the medical necessity for the procedure.

⁴ See 42 USC § 300gg-13.

There is no dispute that the Petitioner had not met the deductible at the time he had the upper endoscopy. Therefore, the Director concludes that BCN correctly applied a portion of its approved amount to the deductible before it paid the provider.

V. ORDER

The Director upholds BCN's final adverse determination of September 28, 2015.

This is a final decision of an administrative agency. 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 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