

**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. 151677-001**

Issued and entered  
this 4<sup>th</sup> day of February 2016  
by **Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On January 12, 2016, ██████████ (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 Petitioner receives group health care benefits from Blue Care Network of Michigan (BCN), a health maintenance organization. His health care benefits are defined in the *BCN Classic for Large Groups Certificate of Coverage*.

The Director notified BCN of the external review request and asked for the information it used to make its final adverse determination. The Director received BCN's initial response on January 15, 2016, and accepted the request on January 20, 2016. BCN furnished additional information on February 1, 2016.

The issue in this external review can be decided by contractual analysis. The Director reviews contractual issues under MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

**II. FACTUAL BACKGROUND**

For several years the Petitioner has had physical complaints of constant gas and bloating that includes intestinal cramping, pain and discomfort for which he has received a variety of treatments that have failed to provide long term relief. His physician referred him to a dietician

for nutritional counseling, which he reports has resulted in improvement in his condition. The Petitioner's benefit plan allows a total of six visits per year. The Petitioner requested approval for up to 12 visits in 2016.

BCN declined to cover the additional nutritional counseling visits. The Petitioner appealed the denial through BCN's internal grievance process. At the conclusion of that process, BCN maintained its denial and issued a final adverse determination November 20, 2015. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did BCN correctly deny coverage for the additional nutritional counseling visits the Petitioner requested?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, BCN's representative stated that coverage was denied because BCN's medical policy "Nutritional Counseling" limits such counseling to six sessions per year.

#### Petitioner's Argument

The Petitioner argues that he needs more frequent meetings with his dietitian because he needs to make frequent adjustments to his diet to determine which foods he can eat without adverse consequences. The Petitioner included a detailed description of this process in his appeal letters of July 14 and November 5, 2015.

#### Director's Review

The *BCN Classic for Large Groups* certificate, in section 8.4(E) does provide coverage for nutritional counseling. However, BCN's medical policy, "Nutritional Counseling" (effective March 18, 2015) limits coverage to six sessions per year:

Nutritional counseling, or medical nutrition therapy, is comprised of significant, complex dietary instruction that is not available in the primary care physician's office or through community resources such as literature or interactive programs. It is a useful service for members who have significant diseases that affect their nutritional status and overall health. Nutritional counseling is performed by a registered dietician (RD) to provide members with dietary information that promotes health, prevents illness and reduces risk factors.

\* \* \*

- Number of visits shall not exceed 6 per calendar year.

The Petitioner seeks coverage for up to six additional nutritional counseling visits.

Under the Patient's Right to Independent Review Act, the Director's role is to determine whether BCN has provided coverage consistent with the terms and provisions of its certificate of coverage and any applicable statutes.

It is common for benefit plans to impose limits on the number of sessions of therapy which will be approved for coverage. These restrictions may be imposed even if a greater number of sessions might be medically necessary. For example, the Petitioner's benefit plan limits coverage for outpatient therapy services to a single period of treatment over 60 consecutive days. These restrictions are not prohibited by state law. The Director therefore finds that BCN's denial of coverage for additional nutritional counseling sessions is consistent with the terms and conditions of the *BCN Classic for Large Groups Certificate of Coverage* and related medical policy for nutritional counseling.

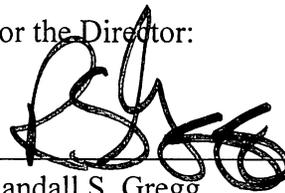
#### V. ORDER

The Director upholds Blue Care Network's final adverse determination of November 20, 2015.

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