

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. 149778-001

HealthPlus Partners, Inc.  
Respondent

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Issued and entered  
this 13<sup>th</sup> day of November 2015  
by Joseph A. Garcia  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On October 23, 2015, ██████████ authorized representative ██████████ (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 health care benefits through HealthPlus Partners, Inc. (HealthPlus), a health maintenance organization for Medicaid-eligible individuals. The Director notified HealthPlus of the external review request and asked for the information it used to make its final adverse determination.

The Director received HealthPlus’s initial response on October 26, 2015. After a preliminary review of the material submitted, the Director accepted the request on October 30, 2015.

The issue in this external review can be decided by a contractual analysis. The Director reviews contractual issues pursuant to MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

**II. FACTUAL BACKGROUND**

The Petitioner has been diagnosed with asthma and cerebral palsy. His doctor prescribed a “high frequency chest wall oscillation device” (HFCWO) to assist the Petitioner in breathing.

The device is supplied by RespirTech, a Minnesota company. The Petitioner's authorized representative is an employee of RespirTech.

HealthPlus denied coverage for the device. The Petitioner appealed the denial of coverage through HealthPlus' internal grievance process. At the conclusion of that process, HealthPlus affirmed its denial in its final determination dated October 19, 2015. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Was HealthPlus correct to deny coverage for the high frequency chest wall oscillation device?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, HealthPlus wrote that a HFCWO device may be covered for up to four months if the patient has been diagnosed with cystic fibrosis and all other treatment modalities have not been effective. HealthPlus stated that the Petitioner does not meet those criteria.

#### Petitioner's Argument

In the request for external review, the Petitioner's representative wrote:

[C]overage was denied for [Petitioner] based solely on the fact that he doesn't have a diagnosis of cystic fibrosis. RespirTech strongly urges HealthPlus to review [Petitioner's] complex case on an individual case basis and make a coverage exception as his need for HFCC is indisputable.

It is RespirTech's position that HealthPlus' determination that HFCC therapy is not medically necessary for a patient with [Petitioner's] clinical profile is incorrect. It seems likely that the facts of his clinical situation were not appropriately reviewed. Due to the critical nature of this case, it is imperative this is reviewed by a physician board certified in Pulmonology. We are confident that after further review of [Petitioner's] medical records by an appropriately credentialed professional, HealthPlus will agree that [Petitioner] meets all reasonable criteria for coverage. Therefore, HealthPlus' original decision to deny coverage for the InCourage Airway Clearance Therapy should be reviewed and overturned.

Director's Review

As an HMO, HealthPlus is subject to chapter 35 of the Michigan Insurance Code, MCL 500.3501 *et seq.* Section 3571, MCL 500.3571, states in part “a health maintenance organization that participates in a state or federal health program...is not required to offer benefits or services that exceed the requirements of the state or federal health program.”

The contract between HealthPlus and the Michigan Department of Community Health (MDCH) enumerates the requirements for providing benefits to Medicaid recipients such as the Petitioner. That contract provides with respect to durable medical equipment:

Contractors must operate consistently with all applicable Medicaid coverage and limitation policies including Medicaid guidelines for medical necessity of Durable Medical Equipment and Medical Supplies.

In this case, the Medicaid guidelines are found in the *Medicaid Provider Manual* which require that the patient be diagnosed with cystic fibrosis in order to receive coverage for an HFCWO. Because the Petitioner has not been diagnosed with that condition, HealthPlus is not required to provide coverage for an HFCWO.

The Petitioner's representative argues that an HFCWO is medically necessary for the Petitioner and requests that an exception be made in his case. HealthPlus does not question the medical necessity of an HFCWO (in its final adverse determination it offered no opinion on that issue). HealthPlus, in denying coverage, simply concluded that the Petitioner did not meet the standard established by Medicaid.

In conducting reviews under the Patient's Right to Independent Review Act (PRIRA), the Director is limited to determining whether an insurer's final adverse determination is consistent with the terms of the relevant policy and any applicable law. See MCL 550.1911(13). Under the PRIRA, the Director has no authority to amend the terms of an insurance policy to require an insurer or HMO to provide coverage that is inconsistent with those terms.

The Petitioner's certificate of coverage does not require HealthPlus to provide coverage for all medical treatment that might be medically necessary. HealthPlus is only required to provide coverage for the services mandated by Medicare and codified in the *Medicaid Provider Manual*.

The Director finds that HealthPlus's denial of coverage for HFCWO device is consistent with the provisions of Medicaid guidelines applicable to the Petitioner's coverage.

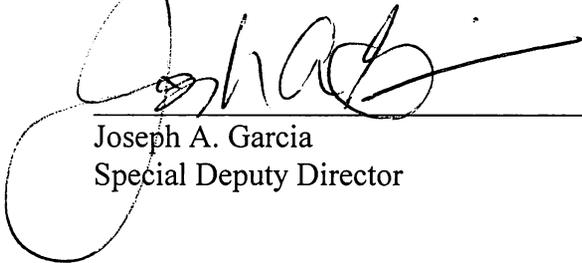
**V. ORDER**

The Director upholds HealthPlus's October 19, 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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Joseph A. Garcia  
Special Deputy Director