

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. 150961-001

Humana Medical Plan of Michigan, Inc.

Respondent.

Issued and entered
this 15th day of December 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) had a colonoscopy which she thought would be covered with no cost sharing. However, \$480.00 was applied to her deductible by her health plan, Humana Medical Plan of Michigan, Inc. (Humana).

On November 19, 2015, she filed a request with the Director of Insurance and Financial Services for an external review of Humana's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits through an individual medical policy from Humana, a health maintenance organization. The Director immediately notified Humana of the external review request and asked for the information it used to make its final adverse determination. Humana furnished the requested information on November 20 and additional information on December 2, 2015. After a preliminary review of the material received, the Director accepted the request on November 30, 2015.

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 health care benefits are defined in an *Individual Medical Policy* which includes riders, amendments, and notices (the policy).

On March 9, 2015, the Petitioner had a preventive care colonoscopy. The anesthesia was administered by Anesthesia Services, PC, an out-of-network provider; the charge for the anesthesia was \$960.00. Humana's allowed amount for the anesthesia administration was \$480.00 and it applied that amount to the Petitioner's in-network deductible.¹

The Petitioner appealed Humana's decision through its internal grievance process. At the conclusion of that process, Humana issued a final adverse determination dated November 4, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did Humana correctly process the claim for the Petitioner's anesthesia administration?

IV. ANALYSIS

Petitioner's Argument

The Petitioner said she was surprised when she received a bill from Anesthesia Services for \$480.00: "I was under the impression that a colonoscopy is covered."

The Petitioner said, "Finding doctor and hospital both in network I made many, many phone calls to doctor office and insurance (Humana) to make sure everything is covered, in network and I won't be charged anything, especially under the Affordable Care Act, colonoscopies are not supposed to have a charge." She believes that no deductible should have been applied.

Respondent's Argument

In its final adverse determination to the Petitioner, Humana explained how it processed the claim for the anesthesia services:

Unfortunately, we're unable to approve additional benefits for anesthesia services you received March 9, 2015.

Why we were unable to approve your appeal

¹ Other charges related to the colonoscopy were apparently covered with no cost sharing by the Petitioner.

Humana is unable to approve additional benefits because the original claims were processed according to your network anesthesia benefit. There were two claims submitted for anesthesia for the same date of service, one for the administration of the anesthesia and another for the monitoring of the anesthesia. When Humana receives two claims for anesthesia each claim is allowed at 50 percent for each provider. Claim number 092191289 for [a] CRNA [*certified registered nurse anesthetist*] was paid in network at 100 percent of the allowed amount. Claim number 095415870 for Anesthesia Services, P.C. processed to apply 100 percent of the allowed amount towards your network deductible. Therefore, your claims were processed correctly according to the terms and provisions of the plan.

Director's Review

The federal Patient Protection and Affordable Care Act (PPACA) requires health plans and health insurers offering group or individual health insurance coverage to provide benefits for certain preventive care services without imposing cost sharing. Among those preventive care services are screenings for colorectal cancer by a colonoscopy.

The Petitioner had a preventive colonoscopy. However, the anesthesia for that colonoscopy was administered by an out-of-network provider. A rule promulgated under PPACA says that a health plan may impose cost sharing for a preventive care service when the plan has a network of providers and the service was delivered by an out-of-network provider:

Nothing in this section requires a plan or issuer that has a network of providers to provide benefits for items or services described in paragraph (a)(1) of this section that are delivered by an out-of-network provider. Moreover, nothing in this section precludes a plan or issuer that has a network of providers from imposing cost-sharing requirements for items or services described in paragraph (a)(1) of this section that are delivered by an out-of-network provider.²

Humana's allowed amount for the anesthesia administration was \$480.00, and it applied that amount to the Petitioner's network deductible as it was permitted to do under the terms and conditions of the policy. The Petitioner said she tried "to make sure everything is covered" and found an in-network doctor and hospital. It is unfortunate that she had to use a non-network anesthesiologist, but there is nothing in the policy or federal regulations that requires Humana to cover the out-of-network anesthesia administration with no cost sharing.

The Director finds that Humana's application of its allowed amount of \$480.00 for the anesthesia services to the Petitioner's deductible was consistent with the terms and conditions of her coverage.

² 45 CFR § 147.130(a)(3).

V. ORDER

The Director upholds Humana's November 4, 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:



Randall S. Gregg
Special Deputy Director