

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. 150074-001

McLaren Health Plan,

Respondent.

Issued and entered
this 27th day of October 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. BACKGROUND

██████████ (Petitioner) received services from a nonparticipating provider and disputes the way her health plan processed the claims for those services.

On September 28, 2015, she filed a request with the Director of Insurance and Financial Services for an external review of the health plan's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives group health care benefits as a member of McLaren Health Plan (McLaren), a health maintenance organization. The Director immediately notified McLaren of the external review request and asked for the information it used to make its final adverse determination. The Director received McLaren's response on September 30, 2015. After a preliminary review of the material submitted, the Director accepted the Petitioner's request on October 5, 2015.

The issue in this external review can be decided by 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's health care benefits are defined in a *POS Certificate of Coverage* (the certificate) issued by McLaren. The certificate has two levels of coverage, which are briefly described on p. 6:

Option A Benefits are Benefits coordinated by a PCP who issues referrals, when needed, for specialty care. Option A Benefits are provided at the lowest Out-of-Pocket expense to the Member.

Option B Benefits are Benefits that do not require a PCP referral and can be obtained by a nonparticipating provider. Option B Benefits may result in significant Out-of-Pocket expenses to the Member, and not all services in this Certificate are available under Option B.

The certificate (p. 6) also defines “participating provider” as

a provider directly contracted with MHP to provide services to MHP Members. Members who utilize a participating provider will avoid significant Out of Pocket expenses.

On March 13, 2015, the Petitioner had outpatient surgery at [REDACTED]. [REDACTED] is not a participating provider and McLaren processed the claims for that care as an Option B benefit.

The Petitioner, believing the surgery should be covered as an Option A benefit, appealed through McLaren’s internal grievance process. At the conclusion of that process McLaren issued a final adverse determination dated August 3, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did McLaren properly cover the Petitioner’s surgery as an Option B benefit?

IV. ANALYSIS

Petitioner’s Argument

In her request for an external review, the Petitioner explained her appeal:

This is my second appeal concerning the bill I received from [REDACTED] Healthcare. After a week of enduring extreme pain from kidney stones, I was told I needed surgery. This was an emergency situation. At no time did anyone say this hospital is out of your network. I trusted in the Healthcare Providers. I had been in extreme pain for a week. When they said be at [REDACTED] Hospital at a certain time I didn’t think to question it. I feel taken advantage of. (sic) We pay money out of my husband’s check for our healthcare. We are not in the financial position to pay this bill.¹ I am asking you to please review this request & reconsider to authorize payment to [REDACTED] Healthcare for services rendered on 3/13/15.

Respondent’s Argument

In the final adverse determination, McLaren told the Petitioner:

The Appeals Committee reviewed all of the pertinent information including the appeal letter and claims history. McLaren Health Plan cannot approve this request to process

¹ The Petitioner included with her external review request a bill she received from [REDACTED] showing she owed \$8,756.29 for the surgery on March 13, 2015.

services at the Option A benefit level due to the fact that this provider is not a participating provider with McLaren Health Plan. This service is available in-network with McLaren Health Plan. As stated in the McLaren Health Plan Certificate of Coverage, page 24. . . , if the member chooses to receive services from a non-participating provider they may incur costs higher than those received from a participating provider. Your services have been approved under your Option B benefit level.

In its response to the external review request, McLaren also gave this history:

The [Petitioner] was seen in the ER of [REDACTED] Medical Center, a non-contracted facility, on 3/8/15. The member was seen in [her physician's] office, a contracted urologist, on 3/12/15. The member had outpatient surgery performed by [that physician] at Covenant Medical Center on 3/13/15. The claim for [REDACTED] Medical Center processed correctly under the member's Option B benefit level as [REDACTED] is not a contracted provider.

Original Request and Denial

3/13/15; McLaren Health Plan received a request from [the Petitioner's urologist's] office asking for authorization of outpatient surgery at [REDACTED] Medical Center. The request was approved to process under the member's Option B benefit level as [REDACTED] Medical Center is an out of network provider.

* * *

7/9/15; McLaren Health Plan Appeals Coordinator spoke with Jennifer at [the urologist's] office. Jennifer indicated that [the urologist] also performs procedures at [REDACTED] in [REDACTED] and [REDACTED] Medical Center, both of which are contracted providers with McLaren Health Plan.

Director's Review

Option B benefits are described in more detail in section 8.02 of the certificate (p. 24):

8.02 OPTION B BENEFITS

Option B Benefits allows you to self-refer, meaning a referral from a PCP is not required. In addition, you can choose to receive services from any doctor or hospital, whether the provider participates with McLaren or not. In exchange for this flexibility, the Out-of-Pocket expenses are higher than under Option A.

If you choose to receive services from a non-participating provider, you may incur costs higher than those received from a participating provider, even if the services are identical. In some cases, you may have to pay the price difference between the cost of the services and what McLaren pays a participating provider for the service.

These costs can be significant, which is why it is important to understand your liability when using a non-participating provider.

It may be true that the Petitioner did not know that [REDACTED] was nonparticipating and did not really “choose” to receive services from a non-participating provider. Apparently the Petitioner’s urologist, a participating provider, requested authorization from McLaren to perform the outpatient surgery at [REDACTED] a nonparticipating facility, even though the urologist also performs surgery at a participating hospital in [REDACTED] where the Petitioner lives.

However, the Director does not know what the Petitioner and her urologist discussed, if anything, regarding the facility where the surgery would take place. Furthermore, because the Petitioner’s coverage allows her to use nonparticipating providers, McLaren had no reason to question the urologist’s authorization request.

It is unfortunate that the Petitioner was left with unexpected out-of-pocket costs for her surgery. Nevertheless, there is nothing in the certificate that gives the Director the authority to reverse McLaren’s decision under the facts in the record in this case. The Petitioner used a nonparticipating provider for her surgery. Consequently, the Director finds that McLaren correctly processed the claims for the Petitioner’s surgery on March 13, 2015, as Option B benefits according to the terms and conditions of the certificate.²

V. ORDER

The Director upholds McLaren’s August 3, 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 sixty 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, Health Care Appeals Section, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director

² The Petitioner also argued that the surgery was a medical emergency and should have been covered as an Option A benefit. However, it was not shown in the record that the surgery met the definition of a medical emergency (certificate, p. 26).