

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. 147157-001

Molina Healthcare of Michigan,

Respondent.

Issued and entered
this 23rd day of April 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 3, 2015, ██████████ (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 the Healthy Michigan Plan as a member of Molina Healthcare of Michigan (Molina), a health maintenance organization.¹

The Director notified Molina of the external review request and asked for the information it used to make its final adverse determination. The Director received Molina's response on April 7, 2015. After a preliminary review of the material submitted, the Director accepted the request on April 10, 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.

¹ The Healthy Michigan Plan is a program of the Michigan Department of Community Health. The plan operates under a waiver approved by the Centers for Medicare and Medicaid Services and provides health care coverage to low-income adults who do not otherwise qualify for Medicaid or Medicare. Molina administers the benefits.

II. FACTUAL BACKGROUND

The Petitioner's benefits are defined in Molina's *Healthy Michigan Plan Certificate of Coverage* (the certificate).

The Petitioner has chronic hepatitis C. When his physician prescribed the drug Harvoni (90-400 mg tablet) to treat, Molina denied the request to authorize coverage.

The Petitioner appealed the denial through Molina's internal grievance process. At the conclusion of that process, Molina affirmed its denial in a final adverse determination dated March 16, 2015. The Petitioner now seeks a review of Molina's final adverse determination from the Director.

III. ISSUE

Did Molina correctly deny coverage for the prescription drug Harvoni?

IV. ANALYSIS

Molina provides prescription drug coverage for its Healthy Michigan Plan members but limits that coverage to drugs on its formulary. Harvoni is not on Molina's formulary. The certificate (pp. 27, 28-29), in "Appendix C - Excluded Services & Limitations," says:

Any services, equipment or supplies excluded or limited under the Medicaid Contract are excluded or limited under the Member Agreement, even when recommended by a Primary Care Provider or Participating Provider and/or written on a Plan referral form. . . .

Health maintenance organizations that offer prescription drugs and limit that benefit to drugs included in a formulary are required to provide for exceptions from the formulary limitation when a nonformulary drug is a medically necessary and appropriate alternative. See MCL 500.3406o. However, the requirement does not apply in this case because Molina is administering benefits for the Healthy Michigan Plan, a state health program. Section 3571 of the Insurance Code says:

. . . 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. MCL 500.3571.

Harvoni is not on the list of drugs that must be covered by health maintenance organizations that administer the Healthy Michigan Plan. Therefore the Director has no basis to order Molina to exceed the requirements of the program and cover Harvoni.

V. ORDER

The Director upholds Molina's March 16, 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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director