

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. 154659-001

Molina Healthcare of Michigan, Inc.

Respondent.

Issued and entered
this 18th day of August 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) receives health care benefits through the Healthy Michigan Plan, a program of the Michigan Department of Health and Human Services that serves low income individuals and families. Molina Healthcare of Michigan, Inc. (Molina), a health maintenance organization, administers the benefits.

The Petitioner was denied coverage for an item of durable medical equipment by Molina. On July 20, 2016, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of Molina's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Director immediately notified Molina of the external review request and asked for the information it used to make its final adverse determination. Molina responded on July 25, 2016. After a preliminary review of the material submitted, the Director accepted the Petitioner's request on July 27, 2016.

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

The Petitioner has inoperable recurrent glioblastoma, a malignant brain tumor. His physician prescribed an electrical stimulation device called Optune to treat her condition. The device and accessories were furnished to the Petitioner on May 13, 2016, by Novocure, a nonparticipating oncology therapy company. When Novocure asked Molina to cover Optune, the request was denied.

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 June 27, 2016. The Petitioner now seeks a review of Molina's final adverse determination from the Director.

III. ISSUE

Did Molina correctly deny coverage for the Petitioner's Optune device?

IV. ANALYSIS

Molina covers durable medical equipment (DME) for its members but limits that coverage. The certificate, in "Appendix A – Benefit Detail of Covered Services" (pp. 19, 20), says:

Durable medical equipment is covered in accordance with the [Michigan] Department [of Health and Human Services] guidelines.

In its final adverse determination, Molina told the Petitioner:

This letter is to give you the final answer of your appeal for an Electrical Stimulation Device that was submitted by Novocure, Inc. Your appeal was reviewed by the Molina Healthcare of Michigan Appeal Review Committee ...

The Committee made the decision to deny your request for the Electrical Stimulation Device.

Reason for the Denial

The requested Electrical Stimulation Device is not covered by your insurance. According to the Michigan Department of Health and Human Services Database Fee Screen, this item is not a covered benefit.

Molina says the Optune device is not a covered benefit because the HCPCS code for the device (E0766) is not in the Michigan Department of Health and Human Services Medicaid fee schedule.

Molina, a health maintenance organization administering benefits for a state health program, is not required to provide more benefits than those required by the Healthy Michigan Plan. Section 3571 of the Insurance Code, MCL 500.3571, 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.

The Optune device is not on the list of DME that must be covered by the Healthy Michigan Plan and the Director has no basis to order Molina to exceed the requirements of that program.

V. ORDER

The Director upholds Molina's 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