

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. 148796-001

Nippon Life Insurance Company of America,

Respondent.

Issued and entered
this 5th day of August 2015
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

████████████████████ (Petitioner) was denied coverage for a laboratory test by his health carrier. On July 14, 2015, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of that denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On July 21, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits through a group plan that is underwritten by Nippon Life Insurance Company of America (Nippon). The Director immediately notified Nippon of the external review request and asked for the information it used to make its final adverse determination. Nippon furnished the information on July 21, 2015.

The case involves medical issues so it was assigned to an independent review organization which submitted its recommendation to the Director on August 4, 2015.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in a *Group Plan Booklet Certificate* (the certificate).

The Petitioner has inflammatory bowel disease and was treated with the drug Humira

(adalimumab). His physician ordered the Anser ADA diagnostic test to monitor his response to Humira. The test was performed on September 17, 2014, by Prometheus Laboratories, Inc., a non-participating provider. Nippon denied coverage, saying the test was not medically necessary and not an accepted standard of care for treatment of his condition and therefore not a covered benefit.

The Petitioner appealed the denial through Nippon's internal grievance process. At the conclusion of that process Nippon issued a final adverse determination dated May 7, 2015, affirming its denial. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Was the Anser ADA test medically necessary and generally accepted as the standard of care for the treatment of the Petitioner's condition?

IV. ANALYSIS

Petitioner's Argument

In a June 30, 2015 letter included request for an external review, the Petitioner's authorized representative said:

We have requested this external review on behalf of [the Petitioner]. On 05/07/2015 his insurance company Nippon Life Ins denied the PROMETHEUS Anser ADA diagnostic test performed on 09/17/2014 as being Experimental/Investigational.

Anti-TNF agents, such as Humira (adalimumab), have demonstrated efficacy for induction and maintenance of remission in patients with moderate to severe CD [*Crohn's disease*] or UC [*ulcerative colitis*] or both but the response is not universal. More than one third of patients do not respond to induction therapy (primary nonresponse) and even among initial responders, the response wanes over time. [The Petitioner's doctor] has been treating [him] with adalimumab for his IBD [*inflammatory bowel disease*]. He had begun to exhibit symptoms / or loss of response that may be attributed to subtherapeutic levels of Adalimumab (ADA) and/or the presence of antibodies to Adalimumab (ATA).

* * *

The PROMETHEUS Anser ADA Assay is propriety, fluid-phase mobility shift assay for the simultaneous detection of ATA and Adalimumab. . .

* * *

Based on [the Petitioner's] symptoms, the clinician's medical findings and assessment as well as the evidence presented above we are asking that you overturn the denial of this service as Experimental/Investigational and provide coverage at an in-network benefit level. This patient should not be penalized for obtaining a test which his physician believed could play a critical role in assessing and managing his response to Humira.

Nippon's Argument

In its final adverse determination, Nippon told the Petitioner's authorized representative:

. . . The adverse benefit determination . . . has been upheld, and additional benefits are not available. Your request for additional benefits has been denied for the following reasons:

The Prometheus test for quantitative measurement of the medication level of ADA antibodies was not medically necessary for the [Petitioner]. The levels of ADA during treatment have been shown to vary significantly for different individuals. The levels also have been shown to correspond to the efficacy of ADA. However, there is no sufficient evidence that monitoring ADA levels or ADA antibodies improves outcomes. Monitoring ADA levels and antibodies is not included in expert guidelines, and at this time is not an accepted standard of care. The requested service does not meet the plan's criteria for generally accepted / medically necessary.

Nippon had the Petitioner's case reviewed by AllMed Healthcare Management, an independent medical review organization. AllMed's March 11, 2015, report said:

. . . [T]he clinical utility of measuring antidrug antibody concentrations has not been established, as it is not known how patient management would change based on test results. Limited evidence describes changes in management after measurement of ADA and does not compare these management changes to those made in the absence of ADA measurement. Therefore, the measurement of ADA in a patient receiving treatment is considered experimental / investigational. The treatment does not meet criteria for medical necessity, as ADA testing has not been accepted as the standard of practice according to peer-reviewed medical and scientific literature; and it is not in general use in the relevant medical community. [Citations omitted]

Director's Review

The certificate covers diagnostic laboratory services (p. 50) that are "generally accepted." "Generally accepted" is defined in the certificate (p. 130):

Generally Accepted means Treatment or Service for the particular sickness or injury which is the subject of the claim that:

- has been accepted as the standard of practice according to the prevailing opinion among experts as shown by (or in) articles published in authoritative, peer-reviewed medical and scientific literature; and
- is in general use in the relevant medical community; and
- is not under scientific testing or research.

“Generally accepted” does not include experimental and investigational measures (certificate, p. 130):

Experimental or Investigational Measures means any Treatment or Service, regardless of any claimed therapeutic value, not Generally Accepted by specialists in that particular field of medicine.

The question of whether the Anser ADA test was medically necessary and generally accepted for use in treating the Petitioner’s condition was presented to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient’s Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is certified by the American Board of Internal Medicine with a subspecialty certification in gastroenterology; is published in peer reviewed medical literature; and is in active clinical practice. The IRO report included the following analysis and recommendation:

Reviewer’s Decision and Principal Reasons for the Decision:

It is the determination of this reviewer that the Anser ADA diagnostic test provided on September 17, 2014 was not medically necessary or an accepted standard of care for treatment of the enrollee’s condition.

Clinical Rationale for the Decision:

There is insufficient evidence in the peer-reviewed published medical literature to clearly determine the role of the measurement of antibodies to adalimumab, whether performed separately or combined with testing blood levels. There is inadequate evidence to demonstrate the use of these tests results in improved health outcomes when compared to the usual clinical management.

* * *

Antibodies to infliximab (ATI) or antibodies to adalimumab (ATA) are present in a substantial number of patients treated with infliximab or adalimumab, respectively, and there may be a correlation between the level of these antibodies and clinical response. However, the clinical utility of measuring anti-drug

antibody concentrations has not been established as it is not known how patient management would change based on test results. Limited evidence describes changes in management after measurement of ATI or ATA, but does not compare these management changes to those made in the absence of ATI or ATA measurement. Technical factors related to different assay methods are unresolved, and ATI or ATA threshold values that are informative for discriminating treatment response have not been definitively established. Therefore, it has not been established whether the use of threshold levels of anti-TNF antibodies to ATI or ATA aids in the discrimination of treatment response, nor has the optimal timing of when to measure antibody levels been established. As such, the Anser ADA diagnostic test is experimental / investigational at this time.

* * *

The enrollee has inflammatory bowel disease. The enrollee is receiving adalimumab as treatment for this condition. The use of the Prometheus Anser ADA test is not medically necessary for the treatment of this enrollee's condition at this time. The management of inflammatory bowel disease with biologic therapy is directed by the clinical response of the enrollee to the medication. If the therapy is proving less than beneficial, the dose can be increased. If benefit is not seen, then the therapy is discontinued, regardless of whether there is the presence of an antibody. Furthermore, if there is the presence of an antibody but the enrollee is tolerating and benefiting from the therapy, there is no indication to discontinue the treatment based solely on the laboratory result such as the Anser ADA diagnostic test. As such, the balance of the scientific literature does not demonstrate that the expected benefits of the Anser ADA diagnostic are more likely to be beneficial to this enrollee than the available approach for the management of inflammatory bowel disease with biologic therapy.

There continues to be insufficient evidence in the peer-reviewed published medical literature to clearly determine the role of the measurement of antibodies to adalimumab, whether performed separately or combined with testing blood levels. There is insufficient evidence to demonstrate the use of these tests results in improved health outcomes compared to usual clinical management. Therefore, based on the clinical information provided and the current standards of care in the field, the Anser ADA diagnostic test was not medically necessary or an accepted standard of care for treatment of the enrollee's condition.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the recommendation is afforded deference by the Director. In a decision to uphold or reverse an adverse determination, the Director must cite "the principal reason or reasons why the [Director] did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise, and professional judgment. In addition, the

IRO's recommendation is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected in this case, finds that the Anser ADA test is not medically necessary or an accepted standard of care for the treatment of the Petitioner's condition and is therefore not a benefit under the terms of the certificate.

V. ORDER

The Director upholds Nippon Life Insurance Company of America's final adverse determination of May 7, 2015.

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:



Joseph A. Garcia
Special Deputy Director