

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. 153891-001

Priority Health
Respondent

Issued and entered
this 21st day of June 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 26, 2016, ██████████, authorized representative of ██████████ (Petitioner), filed a request for external review with the Director of Insurance and Financial Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits through Priority Health, a health maintenance organization. The benefits are defined in Priority Health's *HMO Certificate of Coverage*.

The Director notified Priority Health of the external review and requested the information used in making its adverse determination. Priority Health's response was received on June 2, 2016. After a preliminary review of the material received, the Director accepted the case on June 3, 2016.

This case presents an issue of contractual interpretation. The Director reviews contractual issues pursuant to MCL 550.1911(7). This review does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

The Petitioner, who is 21 years old, has spina bifida. As a consequence, she has been incontinent. In 2012, she had surgery, an appendicostomy, which enables her to have normal bowel movements. However, she must use a glycerin and water mix for her appendicostomy to work properly. Glycerin is an over-the-counter medication. It costs \$23.00 for a sixteen-ounce bottle and is used by the Petitioner daily.

Her physician requested coverage from Priority Health for glycerin liquid 80 ml. Priority Health denied the request.

The Petitioner appealed the denial through Priority Health's internal grievance process. Priority Health maintained its denial and issued its final adverse determination on May 6, 2016. The Petitioner now seeks a review of that determination from the Director.

III. ISSUE

Did Priority Health correctly deny coverage for the Petitioner's glycerin?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination to the Petitioner, Priority Health wrote:

Glycerin (Bulk) Liquid does not require a prescription and is available for purchase over-the-counter, therefore it is excluded from coverage in accordance with the Certificate of Coverage and Approved Drug List.

The Appeal Committee understood this product is necessary for [the Petitioner] and that [her mother] has made efforts to find the most cost-effective resource, however the committee did not feel an exception was appropriate in this instance.

As mentioned during the appeal meeting, a Priority Health Case Manager will be contacting [Petitioner's mother] to discuss potential resources available through Ottawa County Community Mental Health (CMH).

Petitioner's Argument

In a letter filed with her request for an external review, Petitioner explained why she is seeking coverage for glycerin:

I was born with Spina Bifida and in 2012 I had a appendicostomy, in order for me to have a daily bowel movement. In order for this to work I use 80 ML of liquid Glycerin to 550 ML water. This is a life long process, when I started this in 2012 Glycerin was \$7.00 per 16 oz. bottle now it's \$23.00 for a 16 OZ bottle. I know this is over the counter, but I can't afford to keep paying for this and my parents can't as well. I have Medicaid ... We talked with them and they said that if Priority HMO covers 1/2 they will cover the other 1/2. I'd love to keep my appendicostomy; it keeps me more independent, but it's necessary for me to use liquid Glycerin on a daily use. There is nothing else I can use with my appendicostomy. I'm requesting that you reconsider and reverse this decision...and authorize the liquid Glycerin to be covered under a prescription for me.

In a letter of medical necessity dated March 17, 2016, Petitioner's physician wrote:

[Petitioner] is a patient of mine with Spina Bifida, who had surgery for appendicostomy placement in 2012 for longstanding fecal incontinence. She has had good success with antegrade enema flushes of 80 ml liquid glycerin and 550 ml water through her appendicostomy, allowing her to have regular bowel movements per rectum. However, the family has needed to pay out of pocket for glycerin and the estimated cost per month is \$184. This totals to more than \$2,200 per year, which is a significant financial burden for this patient and her family. I am requesting that you would authorize glycerin for this patient.

Director's Review

Priority Health's *HMO Certificate of Coverage* (page 25) includes this provision:

Non-Covered Services

* * *

Except for drugs listed in Preventive Health Care Guidelines, drugs which do not, by federal or state law, require a prescription order (over-the-counter (OTC) drugs). We may elect certain OTC drugs on the Approved Drug List, based on recommendations made by our Pharmacy and Therapeutics Committee

The over-the-counter drugs for which Priority Health provides coverage are listed on Priority Health's Approved Drug List. On that list, glycerin is identified as a non-covered drug. While it is unfortunate that buying glycerin is creating a financial hardship for the Petitioner, Priority Health's denial of coverage for glycerin is consistent with the terms of Priority Health's *HMO Certificate of Coverage* and its related drug policy documents.

V. ORDER

Priority Health's May 6, 2016 final adverse determination is upheld. Priority Health is not required to provide coverage for the Petitioner's glycerin.

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 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