

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

[REDACTED]

Petitioner,

v

File No. 149566-001

PHP Insurance Company,

Respondent.

Issued and entered
this 28th day of September 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

[REDACTED] (Petitioner) was denied coverage for an inpatient hospital stay by her health plan. On August 26, 2015, she 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.*

The Petitioner receives health care benefits through a group health plan that is underwritten by PHP Insurance Company (PHP). The Director notified PHP of the external review request and asked for the information it used to make its final adverse determination. The Director received PHP's response on September 1, 2015. After a preliminary review of the material submitted, the Director accepted the Petitioner's request on September 2, 2015.

To address the medical issues in the case, the Director assigned the matter to an independent medical review organization which provided its analysis and recommendation on September 16, 2015.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in a certificate of coverage (the certificate) for her PPO plan.

On January 25, 2015, while walking in the [REDACTED] the Petitioner was struck by a motor vehicle. She had many injuries including a severe scalp laceration, leg laceration, and multiple bruises and abrasions. She also had a mild traumatic brain injury and fractured her neck (odontoid process fracture, peg type II).

On February 3, 2015, she was discharged from [REDACTED] Hospital and went by commercial airliner to [REDACTED] where she was admitted to [REDACTED] Hospital. She was evaluated and treated and then discharged on February 6, 2015.

PHP denied [REDACTED] Hospital's February 4, 2015, request for coverage of the Petitioner stay, saying she did not meet its criteria for an inpatient admission. The Petitioner appealed the denial through PHP's internal grievance process. At the conclusion of that process, PHP issued a final adverse determination dated July 1, 2015, affirming its denial. The Petitioner now seeks a review of that determination from the Director.

III. ISSUE

Is PHP required to cover the Petitioner's hospital stay from February 3 through February 6, 2015?

IV. ANALYSIS

Petitioner's Argument

To support her argument that inpatient care was medically necessary, the Petitioner submitted a letter from her neurosurgeon at [REDACTED] Hospital dated August 22, 2015, that included progress notes and discharge information from her stay. The neurosurgeon said:

Please see the attached discharged summary for [the Petitioner], who sustained the following severe injuries in a motor vehicle accident in the [REDACTED]:

1. Displaced C2 fracture neck (odontoid peg type II).
2. Open, contaminated lower leg laceration, 20cm.
3. Open degloving scalp laceration, 15cm in size with contamination
4. Mild traumatic brain injury.
5. Multiple bruises and abrasions.

Her admission to [REDACTED] Hospital was medically necessary to allow:

1. Stabilization of fracture with risk of quadriplegia/death.
2. Cleaning of the wounds, Head and leg.

3. Antibiotics
4. DVT prophylaxis.

PHP's Argument

In its final adverse determination, PHP explained its decision to deny coverage to the Petitioner:

Our appeal / grievance committee reviewed your request for coverage of the services you received from [REDACTED] Hospital on 2/3/15 through 2/6/15. We took into consideration your written grievance and your testimony at the grievance hearing. The committee's decision is to sustain the denial of your request for coverage of the services you received from [REDACTED] Hospital on 2/3/15 through 2/6/15 because you did not meet criteria for an inpatient admission.

The documentation provided from [REDACTED] about your condition upon your admission on 02/03/15 indicate that you were stable; you denied any pain, fever, chills, shaking or shortness of breath. The notes also indicate that you were able to walk with a normal gait and had received day passes away from the hospital in [REDACTED].

During our meeting, you said that you didn't take any pain medications during your stay. You said that you were waiting for [REDACTED] to perform 2 tests; an MRI and a CAT scan. When you received the results back from the second test and were cleared for discharge, you were unable to leave that night because of transportation issues, so you left the hospital the next morning.

* * *

We received a request for authorization for your inpatient stay from [REDACTED] Memorial on 02/04/15. We reviewed the medical information presented and denied the request for the inpatient stay because you did not meet criteria. We communicated this decision verbally to [REDACTED] Case Manager at Jackson, on 02/04/15. We sent this information in a letter to you on 02/05/15 and copied [REDACTED] Hospital on this letter.

While we do not dispute that you may have needed additional treatment for the injuries you sustained from the accident, your condition on 02/03/15 did not meet the criteria for an inpatient stay.

PHP relied on the criteria in its "Musculoskeletal Disease GRG¹" to make its determination that inpatient care was not necessary.

1 "General recovery guidelines."

Director's Review

PHP denied coverage for the Petitioner's inpatient stay at [REDACTED] Hospital on the basis the Petitioner did not meet its guidelines for an inpatient hospital stay, i.e., the admission was not medically necessary.

As explained in "Section 2: What's Not Covered – Limitations and Exclusions" (pp. 80, 86), the certificate does not cover care or treatment that is not medical necessity:

We Do Not Pay Benefits for Exclusions

We will not pay Benefits for any of the services, treatments, items or supplies described in this section, even if either of the following is true:

- It is recommended or prescribed by a Physician; or
- It is the only available treatment for your condition.

* * *

P. All Other Exclusions

* * *

2. Health services and supplies that are not Medically Necessary – see the definition in Section 10: Glossary of Defined Terms.

"Medical necessity" is defined in the certificate (p. 135):

Medically Necessary, Medical Necessity – health care services and supplies, which are determined by us to be medically appropriate per PHP Insurance Company medical policy and nationally recognized guidelines, and

- Not Experimental or Investigational Services; and
- Necessary to meet the basic health needs of the Covered Person; and
- Rendered in the most cost-efficient manner and type of setting appropriate for the delivery of the Covered Health Service; and
- Consistent in type, amount, frequency, level, setting, and duration of treatment with scientifically based guidelines of national medical, research or health care coverage organizations or governmental agencies that are accepted by us; and
- Consistent with the diagnosis of the condition; and
- Required for reasons other than the convenience of the Covered Person or his/her Physician; and

- Demonstrated through prevailing peer-reviewed medical literature to be either:
 - Safe and effective for treating or diagnosing the condition or Sickness for which their use is proposed, or,
 - Safe with promising efficacy:
 - For treating a life-threatening Sickness or condition; and
 - In a clinically controlled research setting; and
 - Using a specific research protocol that meets standards equivalent to those defined by the National Institutes of Health.

The question of whether the Petitioner's inpatient hospital stay was medically necessary was presented to an independent review organization (IRO) for analysis and a recommendation as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is board certified in neurosurgery and has been in active clinical practice for more than 15 years. The IRO report included the following analysis and recommendation:

Recommended Decision:

The MAXIMUS physician consultant determined that it was not medically necessary for the member to have been treated at an inpatient level of care from 2/3/15 to 2/6/15.

Rationale:

The MAXIMUS independent physician consultant, who is familiar with the medical management of patients with the member's condition, has examined the medical record and the arguments presented by the parties.

The results of the consultant's review indicate that this case involves a 69 year-old female who was struck by a car while vacationing with her husband in the [REDACTED] islands on 1/25/15. At issue in this appeal is the request for coverage of the inpatient treatment services that the member received from 2/3/15 to 2/6/15.

The member was briefly unconscious and was taken, with her husband, to a local hospital. The member's husband was critically injured and she sustained a large scalp and lower extremity laceration, which were surgically repaired. The member was found to have an odontoid (C2) fracture and was placed in a collar. The MAXIMUS physician consultant explained that this was appropriate treatment for this fracture. The member remained neurologically intact. During

her hospital stay, the member was fully and independently mobile and received day passes from the hospital to visit relatives and friends locally. The member was discharged from the hospital on 2/2/15 and deemed to be medically and neurologically stable. She took a commercial flight to [REDACTED] where her husband had been sent for tertiary care. The member arrived at [REDACTED] Hospital at approximately 2:00 AM on 2/3/15 and was admitted to that hospital. The physician consultant noted that except for the injuries sustained on 1/25/15, the member's 13 point review of symptoms was negative. The member had no fever, drainage from her wounds or new symptoms. She was seen by the neurosurgery service and the plastic surgery service. Repeat radiographic studies confirmed the member's odontoid fracture and she was told to continue with the previously applied hard collar. Plastic surgery removed the member's sutures and advised simple topical ointment for her laceration. The member remained fully ambulatory during this hospital stay. The consultant indicated that there is no documentation that the member received intravenous fluids, intravenous antibiotics or intravenous analgesics during this hospital stay. The consultant also indicated that no new treatments were initiated. The member was to be discharged on 2/5/15, but deferred that discharge until 2/6/15 because of her own transportation issues.

The physician consultant explained that inpatient hospital care from 2/3/15 to 2/6/15 was not medically necessary. The consultant indicated that the member had already been observed medically, surgically and neurologically stable and was appropriately cared for. The member was discharged from that hospital after 9 days and was allowed to fly on the 1 to 2 hour commercial flight to Miami to be near her husband. The consultant explained that the member would not have been allowed to be fully ambulatory or allowed to fly seated on such a commercial flight if she had an unstable C2 fracture. The physician consultant indicated that the care provided at the [REDACTED] hospital was emergency care with a discharge to outpatient/home care thereafter.

The physician consultant indicated that using Milliman Care Guidelines for inpatient care, the member did not have a newly diagnosed infection, she did not have an unstable fracture needing further observation, she did not have neurologic compromise, there was no rheumatologic, hematologic, respiratory, cardiac, vascular, muscular or arthropathy condition requiring acute care and she did not have uncontrolled pain requiring parenteral analgesics. The consultant explained that since the member did not fulfill any of these criteria, acute inpatient hospital care from 2/3/15 to 2/6/15 was not medically necessary or appropriate. The consultant noted that there was no medical reason to make an exception in this case. The physician consultant indicated that the Health Plan's criteria for inpatient care are consistent with the current medical standard of care. [Citations omitted]

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. See MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected in this case, finds that the Petitioner's inpatient hospital stay from February 3 through February 6, 2015, was not medically necessary and therefore not a covered benefit.

V. ORDER

The Director upholds PHP Insurance Company's final adverse determination of July 1, 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:



Randall S. Gregg
Special Deputy Director