

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. 151728-001

UnitedHealthcare Insurance Company,
Respondent.

Issued and entered
this *9th* day of February 2016
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) had a colonoscopy. Her health insurer, UnitedHealthcare Insurance Company (UHC), covered the procedure but applied its entire allowed amount to the Petitioner's deductible. The Petitioner believed the colonoscopy should be covered with no cost sharing as a preventive care service.

On January 15, 2016, the Petitioner filed a request with the Director of Insurance and Financial Services for an external review of UHC's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits through a group plan that is underwritten by UHC. The Director immediately notified UHC of the external review request and asked for the information it used to make its final adverse determination. UHC responded on January 15, 2016. After reviewing the information submitted, the Director accepted the case for review on January 25, 2016.

The issue in this external review can be decided by a contractual analysis. The Director reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are described in the *UnitedHealthcare Choice Plus Certificate of Coverage* (the certificate).

On April 21, 2015, at age 32, the Petitioner had a colonoscopy (and related services) performed by network providers. UHC's allowed amount for the services was \$1,625.47 and it applied that amount to the Petitioner's unmet deductible for network services.

The Petitioner appealed through UHC's internal grievance process, arguing that the procedure should have been fully covered by UHC. At the conclusion of the grievance process, UHC issued two final adverse determinations dated November 16, 2015, affirming its decision.¹ The Petitioner now seeks a review of those final adverse determinations from the Director.

III. ISSUE

Did UHC correctly apply its allowed amount for the Petitioner's colonoscopy to her network deductible?

IV. ANALYSIS

Petitioner's Position

In a letter dated January 12, 2016, that was included with the external review request, the Petitioner wrote:

I have been informed . . . that my appeal regarding UHC's review of coverage of my colonoscopy did not result in a redetermination of the benefits. I am asking for a further review of my appeal. On 4/21/15, I underwent a medically necessary preventive screening colonoscopy. Out of a population of 5 first cousins, 4 had polyps in their 20s. I have attached the original appeal and accompanying information which explains why this preventive screening is medically necessary. The preventive colonoscopy should have been adjudicated under the Preventive Care Services benefit.

Preventive screening colonoscopies were recommended based on medical necessity established by my significant family history and polyps found in my first cousins and my sister in their 20s. I was advised to undertake this procedure based on the medical expertise of multiple gastroenterology ("GI") specialists. The GT specialist who treated my first cousin . . . originally made this recommendation. The board certified GI specialist . . . a Network physician who treated me, was in agreement.

I would like to point out, that as the insured, I did not know, and could not reasonably have been expected to know, that payment would not be made for this procedure under Preventive Services, as I had my first screening colonoscopy on 3/30/2010. UHC processed it appropriately as a screening colonoscopy under the Preventive Services Benefit.

¹ Two providers were involved in the procedure.

This service should have been covered under a higher level of benefits by UHC without cost sharing to me under my deductible. In reviewing the UHC Coverage Determination Guideline, page 3, certain services can be done for preventive or diagnostic reasons. It states "when a service is performed for the purpose of preventive screening and is appropriately reported, it will be adjudicated under the Preventive Care Services benefit." UHC states in their letter that information submitted on the claim is the responsibility of the provider. I have contacted the provider and asked them to review and submit a corrected bill as appropriate.

Further, the Coverage Determination Guideline goes on to state "preventive services are those performed on a person who has had screening done within the recommended interval with the findings considered normal." In the attached records, you will find my GI specialist's recommendation to have the colonoscopy in 5 years, which I followed. [My doctor] knows and understands the implications of my family history. While I understand UHC has "guidelines" for intervals in the absence of other factors, medical necessity takes precedence in providing appropriate and quality care in the best interests of members.

Respondent's Argument

The two final adverse determinations had nearly identical language and relied on the same rationale for denial. One of the determinations told the Petitioner:

We carefully reviewed the documentation submitted, our payment policies and the limitations, exclusions and other terms of your Benefit Plan, including any applicable Riders, Amendments, and Notices. We confirmed, however, that this service(s) is not eligible for payment as you requested. You are responsible for all costs related to this service(s).

* * *

According to your Benefit Plan, section entitled Schedule of Benefits, subsection entitled Scopic Procedures - Outpatient Diagnostic and Therapeutic, covered scopic services received from a network provider are payable at 100% of eligible expenses after satisfying the annual network deductible.

Because the claim(s) for this service(s) was processed according to the above plan provision(s), our original determination remains unchanged, and the determination is upheld. Our administrative decision does not reflect any view about the appropriateness of this service(s). Only you and your physician can make decisions about your care.

We verified that the service(s) received did not qualify as a preventive care service(s) based on UnitedHealthcare's Preventive Care Services Reimbursement Policy. We apologize for any confusion and frustration you have experienced.

Director's Review

The federal Patient Protection and Affordable Care Act (PPACA) requires most health plans, including the Petitioner's, to cover, without cost sharing, certain preventive care services recommended by the United States Preventive Services Task Force (USPSTF).² The "Schedule of Benefits" for the Petitioner's plan (p. 14) explains that no deductible is required for preventive care services from network providers.

Among the required preventive care services is screening for colorectal cancer. The USPSTF recommendation says:

The USPSTF recommends screening for colorectal cancer using fecal occult blood testing, sigmoidoscopy, or colonoscopy in adults beginning at age 50 years and continuing until age 75 years. The risks and benefits of these screening methods vary.

Under the USPSTF recommendation, a colonoscopy is one method of screening for colorectal cancer, but not all colonoscopies for colorectal cancer screening are covered with no cost sharing. The USPSTF's fact sheet for colorectal cancer screening says:

This draft recommendation statement applies to adults ages 50 and older who do not have signs or symptoms of colorectal cancer (CRC). It does not apply to people who are at increased risk of CRC because of a family history of certain genetic conditions linked to a high risk of CRC (such as Lynch syndrome or familial adenomatous polyposis) or who have a history of inflammatory bowel disease, previous non-cancer growths in the colon or rectum, or previous CRC.

UHC prepared a document called "Preventive Care Services: Coverage Determination Guideline" that explains how it complies with the requirements of the PPACA. The guideline (p. 17) describes the preventive care benefit for colorectal cancer screening that has no cost sharing:

Colorectal Cancer Screening

Fecal Occult Blood Testing, Sigmoidoscopy, or Colonoscopy USPSTF Rating (Oct. 2008):

Screening for colorectal cancer using fecal occult blood testing, sigmoidoscopy, or colonoscopy, in adults, beginning at age 50 years and continuing until age 75 years.

- 1) annual high-sensitivity fecal occult blood testing,
- 2) sigmoidoscopy every 5 years combined with high-sensitivity fecal occult blood testing every 3 years, and

² See 42 USC §300gg-13 and regulations at 45 CFR § 147.130.

3) screening colonoscopy at intervals of 10 years

Thus, UHC's guideline reflects the USPSTF recommendation that screening colonoscopies be covered with no cost sharing beginning at age 50. The Petitioner was 32 years old when she had her colonoscopy. Therefore, her colonoscopy is covered as a diagnostic scopic procedure and is covered 100% after the deductible has been satisfied.³

The Director concludes and finds that UHC correctly processed the claims for the Petitioner colonoscopy according to the terms and conditions of the certificate.

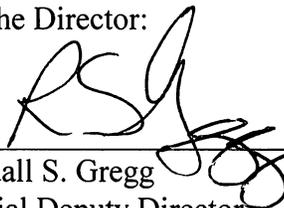
V. ORDER

The Director upholds UHC's November 16, 2015, final adverse determinations.

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:

A handwritten signature in black ink, appearing to read 'RS Gregg', is written over a horizontal line. The signature is stylized and cursive.

Randall S. Gregg
Special Deputy Director

³ See "Schedule of Benefits," p. 16.