

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXX

Petitioner

File No. 87139-001-SF

v

Blue Cross and Blue Shield of Michigan
Respondent

Issued and entered
This 8th day of February 2008
by Ken Ross
Acting Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On January 10, 2008, XXXX, authorized representative of XXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Services under Public Act No. 495 of 2006, MCL 550.1951 *et seq.* The Commissioner reviewed the material submitted and accepted the request on January 17, 2008.

As required by Section 2(2) of Act 495, the Commissioner conducts this external review as though the Petitioner were a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Commissioner notified Blue Cross and Blue Shield of Michigan (BCBSM) of the external review and requested the information it used in making its adverse determination. The Commissioner received BCBSM's response on January 28, 2007.

The issue in this external review can be decided by analyzing the contract that defines the Petitioner's health coverage, the BCBSM Community Blue Group Benefits Certificate (the certificate) which is amended by Rider XVA-2 Exclusion of Voluntary Abortions (the rider). The

Commissioner reviews contractual issues pursuant to MCL 550.1911(7). The case does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner has health care coverage as an eligible dependent under a self-funded plan through XXXX Schools. BCBSM administers the plan.

On April 26, 2007, the Petitioner requested termination of her pregnancy after she was informed by her physician that there was a significantly increased risk for congenital anomalies. The total charge for her abortion was \$1,366.00. BCBSM denied payment for this surgical service because voluntary abortions are excluded under her coverage.

The Petitioner appealed BCBSM's denial. BCBSM held a managerial-level conference on October 3, 2007, and issued a final adverse determination dated November 14, 2007, confirming its denial of coverage.

III ISSUE

Did BCBSM correctly deny coverage for the Petitioner's April 26, 2007, abortion?

IV ANALYSIS

Petitioner's Argument

The Petitioner said she made the decision to have this abortion procedure based on the professionals at the XXXXX Medical Center. She says she was not informed that it would entail an additional out-of-pocket charge. She says it does not make any sense to wait for a spontaneous abortion or until her life was at risk before BCBSM pays for this service.

The Petitioner believes that her situation was a special case and it should be covered by her BCBSM medical plan.

BCBSM's Argument

BCBSM says the rider, which amends the certificate, specifically provides:

We will not pay for any services related to an abortion, except:

- A spontaneous abortion; or
- To prevent the death of the woman upon whom the abortion is performed.

We will pay for services or supplies to treat complications resulting from an abortion.

BCBSM says it submitted the Petitioner's medical records to its medical consultant who found no threat to the Petitioner's health. BCBSM says the abortion was voluntary, not spontaneous, and it believes its denial of coverage is in accord with the terms of the rider.

Commissioner's Review

The language of the rider is clear and unambiguous: any services related to an abortion are not covered unless it was a spontaneous abortion or if it was done to prevent the death of the woman. There is nothing in the record that indicates that the Petitioner met either of those exceptions.

The Commissioner understands the difficult decision the Petitioner had to make under the circumstances. However, the health care coverage chosen by her husband's employer and administered by BCBSM explicitly excludes the kind of voluntary abortion she received on April 26, 2007, and therefore it is not a covered benefit.

**V
ORDER**

BCBSM's final adverse determination of November 14, 2007, is upheld. BCBSM is not required to cover the abortion provided to the Petitioner on April 26, 2007.

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 sixty 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 Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.