

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

XXXXX

Petitioner

File No. 82426-001

v

US Health and Life Insurance Company
Respondent

Issued and entered
this 15th day of February 2008
by Ken Ross
Acting Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On April 27, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on May 4, 2007.

The issue in this case is the same as the issue in an earlier external review requested by the Petitioner (*XXXXX v US Health and Life Insurance Company*, file number 81773). It can be decided by applying the terms of the Petitioner's health care coverage, the contract defining the Petitioner's benefits. The Commissioner 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 retired to XXXXX and sees a heart specialist, XXXXX, who is not in the USHL

network of providers. USHL applied the eligible amount of the charges to the Petitioner's annual deductible for out-of-network services.

The Petitioner appealed USHL's decision to apply the deductible. He believes USHL should consider his doctors as in-network because of the difficulty he has in finding a network provider. USHL reviewed his claims but upheld its determination. A final adverse determination dated April 18, 2007, was sent to the Petitioner.

III ISSUE

Was USHL correct in applying a deductible to the Petitioner's out-of-network medical services?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that when he moved to XXXXX there were no in-network heart specialists within 40 miles of his home or who were taking new patients. He started seeing Dr. XXXXX, who is only three miles from his home. Dr. XXXXX is in the same office complex as the Petitioner's primary care physician.

The Petitioner argues that under the circumstances Dr. XXXXX should be considered an in-network provider. He does not believe USHL should penalize him with an out-of-network deductible because there were no network doctors within an acceptable distance who were accepting new patients.

US Health and Life Company's Argument

The Petitioner has health care coverage under a group policy secondary to Medicare. The level of coverage is based on the network status of a provider; out-of-network services require an annual \$475.00 per person deductible.

The Petitioner received services from Dr. XXXXX on January 18, 2007, and the eligible charges (\$100.76) were applied to his out-of-network deductible. USHL's "eligible amount" is Medicare's approved amount minus what Medicare paid (Medicare paid \$26.94 on Dr. XXXXX's January 18, 2007 claims). Because the Petitioner's \$475.00 annual deductible for 2007 had not yet been met, USHL's eligible amount was applied to the deductible and USHL paid nothing on the claims.

USHL says it does not require that its insureds use any one particular provider; they are free to choose providers. However, the benefit amount is based on the network status of the provider and not on the insured's efforts to use a network provider.

USHL asserts that it has processed Dr. XXXXX's claims correctly.

Commissioner's Review

The term "network provider" means that the provider has an agreement with USHL to provide services for a negotiated fee. Out-of-network providers do not have agreements with USHL and so the Petitioner does not receive the same discounts as with a network provider. While the Petitioner's plan covers out-of-network services, they are subject to the annual out-of-network deductible and higher coinsurance so the Petitioner has more out-of-pocket expense.

The Petitioner believes his out-of-network doctors should be considered as in-network because there are so few network providers in the area where he lives. However, USHL is correct: its level of coverage is based on the network status of the provider. There is nothing in USHL's benefit plan that requires it to cover services at the network level even if there are no network providers available.

After reviewing the record, the Commissioner finds that USHL processed the Petitioner's claims according to the terms and conditions of coverage.

V
ORDER

The Commissioner upholds USHL's adverse determination of April 18, 2007. USHL is correct in applying a deductible for out-of-network services.

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.