

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 101615-001

v

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 16th day of March 2009
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On November 24, 2008, XXXXX, on behalf of his minor son XXXXX ("Petitioner"), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on December 3, 2008.

The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on December 12, 2008.

The issue in this external review can be decided by a contractual analysis. The contracts here are BCBSM's "Community Blue Group Benefit Certificate" and "Group Dental Care Benefit Certificate Comprehensive Preferred Plan" with related riders. 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

On October 17, 2007, the Petitioner received a dental implant on tooth #7. The charge was \$5,833.00. BCBSM denied payment for the dental implant. The Petitioner appealed BCBSM's decision to deny coverage for his dental implant. BCBSM held a managerial-level conference on August 29, 2008, and issued a final adverse determination dated September 23, 2008.

III ISSUE

Is BCBSM required to cover the Petitioner's dental implant?

IV ANALYSIS

Petitioner's Argument

The Petitioner was born on September 6, 1991, with a birth defect consisting of a cleft lip, cleft palate misaligned jaw and a partially collapsed nose. His BCBSM certificate provided for coverage for the surgery necessary to correct birth defects.

Since his birth, the Petitioner has had many surgeries to help repair his birth defects. Some of the surgeries such as the repair of the cleft lip and cleft palate were completed when the Petitioner was an infant. Other surgeries, such as jaw reconstruction and repair of his collapsed nose, had to be deferred until his face had grown to an adult status.

On June 5, 2007, the Petitioner had the first stage of a jaw reconstruction and implant procedure. BCBSM covered this care. On October 19, 2007, the Petitioner had the second stage of the surgery which included the dental implant. BCBSM denied coverage for the implant. The Petitioner argues that his October 19, 2007, dental implant was medically necessary and a covered benefit under his coverage. Therefore, he wants BCBSM to pay for this care.

BCBSM's Argument

BCBSM denied coverage for this care claiming that it was not a covered benefit under the medical certificate and suggested the claim be filed under the dental certificate. When the claim was filed it was denied as not a covered benefit. BCBSM cites provisions in the medical and dental certificates and the rider as the basis for its decision. Section 4 of the medical certificate, "Coverage for Physician and Other Professional Provider Services," has this language (page 4.23):

The following services are not payable:

* * *

- Dental care (except to treat accidental injuries or multiple extractions requiring hospitalization)

In Section 7 of the medical certificate (page 7.6), "dental care" is defined as:

Care given to diagnose, treat, restore, fill, remove or replace teeth or the structures supporting the teeth, including changing the bite or position of the teeth. [Emphasis added]

The dental certificate, Section II(B)(1)(d) (page 7) describes endodontic services and what procedures will be covered:

Endodontic Services are procedures for treatment of disease of the dental pulp and the surrounding periapical structures. We will cover endodontic treatment, including pulp capping, pulpotomy, and root canal therapy but excluding endodontic implants.

BCBSM says that under the terms of the medical certificate cited above, dental care is excluded except to treat accidental injuries or multiple extractions requiring hospitalization. Since the Petitioner's dental implant is included in the medical certificate's definition of dental care and does not fall under the exception for accidental injury, it is not a covered benefit.

Dental implants are explicitly not covered under the dental benefit certificate and its rider. Thus, BCBSM says it is not required to cover the Petitioner's dental implant.

Commissioner's Review

The Petitioner argues that his dental implant should be covered under the medical certificate because it is treatment of a birth defect. However, that certificate is primarily for medical and surgical care; it provides only very limited coverage for dental treatment. Dental implants could only

be covered under the medical certificate if they were required because of an accidental injury. There is no provision in the certificate that requires coverage of dental care for birth defects. Since the Petitioner's need for a dental implant resulted from a birth defect and not an accidental injury, the Commissioner concludes that they are not a benefit under the medical certificate.

Dental implants are also explicitly not covered under the Petitioner's dental coverage. Therefore, the Commissioner finds that BCBSM has correctly denied coverage for the Petitioner's dental implant under the terms and conditions of both the medical and dental certificates and is not required to provide coverage for this care.

V
ORDER

BCBSM's final adverse determination of September 23, 2008, is upheld. BCBSM is not required to pay for the Petitioner's October 19, 2007, dental implant.

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 Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.