

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. 90898-001

v

American Medical Security Life Insurance Company
Respondent

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

ORDER

I
PROCEDURAL BACKGROUND

On December 3, 2008, XXXXX, authorized representative of 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 11, 2008.

The Commissioner notified American Medical Security Life Insurance Company (AMS) of the external review and requested the information used in making its adverse determination.

This case required review by a medical professional. Therefore, the Commissioner assigned the matter to an independent review organization (IRO). On February 25, 2009, the IRO completed its review and sent its recommendation to the Commissioner.

II
FACTUAL BACKGROUND

The Petitioner receives health benefits as an eligible dependent under a certificate of group insurance (the certificate) issued by AMS. The certificate defines the Petitioner's health care

benefits.

On March 13, 2008, the Petitioner was seen by XXXXX, MD, a psychiatrist. AMS denied coverage for the visit on the basis that it was for a mental or nervous disorder and not a medical condition.

The Petitioner appealed AMS's decision. After the Petitioner completed the internal grievance process, AMS upheld its denial and issued a final adverse determination dated August 8, 2008.¹

III ISSUE

Is AMS correct in denying coverage for the Petitioner's office visit?

IV ANALYSIS

Petitioner's Argument

The Petitioner has an extensive history of medical complaints and problems. She says that the reason for her visit to Dr. XXXXX appeared to be for a panic attack, but was actually because of a bad heart valve that was cutting off the blood supply to her brain. She says that she has this condition from an early age and that it has been misdiagnosed over the years. She further says that Dr. XXXXX has prescribed the wrong medications for her.

The Petitioner believes the visit to Dr. XXXXX was necessary because of a medical condition, and not for a mental or nervous disorder, and therefore should be covered by AMS.

American Medical Security Life Insurance Company's Argument

AMS says that treatment for mental and nervous disorders is not a benefit under the Petitioner's coverage. AMS cites this provision in the certificate (page 15 and 16):

LIMITATIONS AND EXCLUSIONS

Policy benefits are subject to limitations and exclusions described below.

Except as may be provided otherwise by a rider attached to the certificate,

¹ In the final adverse determination, AMS said it would reprocess the claim for another office visit on May 12, 2008, after deciding that it was for a medical condition. That claim is not an issue in this external review.

the Policy does not cover:

* * *

25. Treatment of alcoholism; drug abuse; and mental or nervous disorders including but not limited to anorexia nervosa, bulimia, schizophrenia and depressive disorders (including but not limited to manic depression), except as described in the certificate.

AMS says it reviewed the medical records for the March 13, 2008, visit and concluded the chief complaint was anxiety with panic attacks. "This chief complaint is considered to be a mental or nervous disorder," AMS said, and therefore it is not covered under the certificate.

Commissioner's Review

Although the Petitioner related a number of complaints about services and claims in the material submitted for this external review, the only issue before the Commissioner is the denial of coverage for the office visit to Dr. XXXXX on March 13, 2008, since that was the only issue in dispute identified in the final adverse determination.

When reviewing adverse determinations that involve medical issues, the Commissioner requests an analysis and recommendation from an independent review organization (IRO). The physician reviewer in this case is certified by the American Board of Psychiatry; is an associate medical director at an East Coast comprehensive behavioral health services facility; is a member of the American Psychiatric Association; is published in peer-reviewed medical literature; and is in active practice.

The IRO report said:

The [Petitioner] was specifically referred to a psychiatrist for anxiety. She was diagnosed with Panic Disorder and treated with psychotropic medications and psychotherapy. It was also noted that she was diagnosed with mitral valve prolapse. The latter is associated with Panic Disorder but is not known to be causative. Dr. XXXXX prescribed psychiatric treatments on March 13, 2008, and thus the visit should be considered for the treatment of a mental or nervous disorder.

According to Comprehensive Textbook of Psychiatry...which is the standard reference text for psychiatry, treatment of conditions associated with anxiety disorders, like mitral valve prolapse, need to be addressed medically also. This latter medical care was not performed by Dr. XXXXX. According to the

DSM IV, there is no clearly known etiology for panic disorder; and mitral valve prolapse is present in Panic Disorder patients in only a minority of cases.

As stated above, Panic Disorder may be associated with certain cardiac problems, but this does not change the diagnostic features of Panic Disorder nor its primary treatment. Dr. XXXXX saw [the Petitioner] for anxiety/panic and intervened with standard psychiatric interventions. He did not personally address her Mitral Valve Prolapse which was diagnosed and treated by other non-psychiatric physicians on other dates of service.

The IRO reviewer concluded:

It is the determination of this reviewer that the services rendered on March 13, 2008, by Dr. XXXXX were for the treatment of a mental or nervous disorder and not for the treatment of a medical condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the Commissioner gives deference to the IRO determination since it is based on extensive expertise and professional judgment. The Commissioner, discerning no reason to reject the recommendation in this case, accepts the IRO reviewer's determination and finds that the Petitioner's office visit with Dr. XXXXX on March 13, 2008, was for a mental or nervous disorder and is therefore not a covered benefit. AMS's denial is consistent with the exclusion in Petitioner's certificate.

V ORDER

The Commissioner upholds American Medical Security Life Insurance Company's adverse determination of August 8, 2008.

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.