

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. 102455-001

v

Midwest Security Life Insurance Company
Respondent

Issued and entered
this 30th day of March 2009
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On January 13, 2009, 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 January 23, 2009.

The Commissioner notified Midwest Security Life Insurance Company (Midwest) of the external review and requested the information used in making its adverse determination. The company provided its information on January 15, 2009.

The case presented a medical question so the Commissioner assigned it to an independent review organization which provided its recommendation to the Commissioner on February 6, 2009.

II
FACTUAL BACKGROUND

The Petitioner has health care coverage with Midwest as an eligible dependent under a group insurance certificate (the certificate) through his wife's employment.

The Petitioner has a history of pain in the lower right back and right leg. He was referred to XXXXX, MD, for a neurosurgical consultation. Dr. XXXXX examined him, reviewed his MRI, and recommended physical therapy. On July 21, 2008, the Petitioner began chiropractic treatment with XXXXX, DC.¹ Midwest denied coverage for this care as not medically necessary.

The Petitioner appealed. Midwest reviewed the claims but did not change its decision and issued a final adverse determination dated January 5, 2009.

III ISSUE

Is Midwest correct in denying the Petitioner's treatment from Dr. XXXXX beginning in July 2008?

IV ANALYSIS

Petitioner's Argument

From July 21, 2008, onward, the Petitioner received chiropractic care from Dr. XXXXX. The Petitioner argues that the chiropractic care "is effective and progress is seen." The Petitioner notes that both XXXXX, MD, his primary care physician, and Dr. XXXXX have documented his progress. He says they have complied with all of Midwest's requests for information and have met all requirements for care.

The Petitioner disagrees with Midwest's decision to deny all claims and believes it should cover his chiropractic visits.

Midwest Security Insurance Company's Argument

Midwest reviewed the Petitioner's medical records and determined that the medical records were incomplete: they lacked subjective complaints and history, specific objective findings, a specific plan of care with updates, and re-examinations showing improvement. Based on these records, Midwest determined that the chiropractic services rendered did not meet minimum

¹ The record is not clear when the chiropractic treatments ended but it appears they continued into December 2008.

standards for medical necessity and were therefore not a covered benefit. "Medically necessary" is defined in the certificate:

"Medically Necessary" shall mean medical treatment which is consistent with currently accepted medical practice. Confinement, operation, treatment or services are not considered Medically Necessary unless they are consistent with professionally recognized standards of care with respect to intensity, frequency and duration, and provided in the most economical and medically appropriate site for treatment.... The treatment or care, including supplies and equipment, must be: consistent with the Covered Person's medical condition; known to be safe and effective by most Physicians who are licensed to treat the condition at the time the service is rendered; and not provided primarily for the convenience of the Covered Person or Physician.

"Supportive Care" is also defined in the certificate:

"Supportive Care" shall mean treatment for Covered Persons who have reached maximum therapeutic benefit. Further treatment would be considered maintenance in nature, and of no further corrective value.

Midwest points out that the "Limitations" section of the certificate (pages 15 and 18) contains this exclusionary language:

The term "Covered Expenses" as used for this coverage shall be deemed not to include any of the charges which are described below:

* * *

(2) Such charges which are Experimental, Investigational, Unproven or not medically necessary.

* * *

(35) Such charges which are for Supportive Care. [Underlining added]

Midwest asserts that the Petitioner's chiropractic care was not medically necessary or was only supportive care, and therefore its denial is in accordance with the terms of the certificate.

Commissioner's Review

In reviewing adverse determinations that involve questions of medical necessity or clinical review criteria, the Commissioner obtains an analysis and recommendation from an independent review organization (IRO). The IRO reviewer for this case is a practicing licensed chiropractor; a diplomate of the American Board of Quality Assurance and Utilization Review Physicians; and a Fellow of the American Institute of Healthcare Quality. It was the IRO reviewer's opinion that the documentation did not support the medical necessity for the Petitioner's chiropractic care from

July 21, 2008, on. The IRO reviewer said in part:

The chiropractor did not submit adequate clinical information of history of initial or subsequent presenting complaint, initial or subsequent consultation information, description of accident/injurious event or other etiology, past history, family/social history, history of past medical/chiropractic treatment and/or attempts at self-care, or adequate physical examination specific to the enrollee's presenting complaints, report of measured objective findings from the initial or subsequent physical examination adequately specific to the enrollee's presenting complaints, treatment plan, treatment goals or sufficient chart note file to support medical necessity/appropriateness for chiropractic care/services reportedly rendered from July 21, 2008 forward.

* * *

The documentation provided for this review does not meet guidelines for chiropractic practice or standards of care; or provide sufficient clinical data to establish a specific diagnosis, the medical necessity, or rationale for chiropractic care or services reportedly rendered from July 21, 2008 forward.

* * *

The records submitted for review do not contain adequate and/or consistently legible clinical data, or support the medical necessity and level of care for all chiropractic services reportedly performed.

In summary, the documentation provided for this review does not meet guidelines for chiropractic practice or standards of care; or provide sufficient clinical data to establish a specific diagnosis, the medical necessity, or rationale for chiropractic care, or services reportedly rendered or treatment provided.

The IRO reviewer concluded that the medical necessity for any and all chiropractic services had not been demonstrated.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO reviewer's conclusion is afforded deference by the Commissioner because it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case.

The Commissioner accepts the conclusion of the IRO reviewer and finds the record does not establish the medical necessity for the Petitioner's chiropractic care. Since medical necessity has not been shown, the care the Petitioner received is excluded from coverage.

**V
ORDER**

The Commissioner upholds Midwest Security Insurance Company's adverse determination

of January 5, 2009. Midwest is not required to provide coverage for the Petitioner's chiropractic care from July 21, 2008, on.

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.