

**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

xxxxxx

Petitioner

File No. 104440-001

v

US Health and Life Insurance Company  
Respondent

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**Issued and entered**  
**this 11th day of June 2009**  
**by Ken Ross**  
**Commissioner**

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On April 21, 2009, xxxxxxxx (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.* After a preliminary review of the material submitted the Commissioner accepted the request on April 28, 2009.

The Commissioner notified US Health and Life Insurance Company (USHL) of the external review and requested the information used in making its adverse determination. The company provided information on April 22 and April 30, 2009.

The issue in this external review can be decided by a contractual analysis. The contract that defines the Petitioner's health care benefits is the certificate of group coverage (the certificate) issued by USHL. 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

In December 2008 the Petitioner was hospitalized at the xxxxx Medical Center for delivery of her baby. While hospitalized, she received anesthesia services from providers that were not in USHL's network.

USHL paid the anesthesia claims as out-of-network benefits. The Petitioner appealed USHL's decision. After the Petitioner exhausted the internal grievance process USHL maintained its decision and sent the Petitioner a final adverse determination dated February 24, 2009.

## III ISSUE

Did USHL properly process the Petitioner's anesthesia claims?

## IV ANALYSIS

### Petitioner's Argument

On December 2, 2008, the Petitioner received an epidural block, a method of pain relief used during labor. On December 3, 2008, a blood patch was administered in response to a spinal headache caused by the epidural block. The charge for the epidural block was \$1,500.00 and the charge for the blood patch was \$720.00.

The Petitioner explained the need for these anesthesia services in her request for external review:

I had never planned on having an epidural block from the very beginning of my pregnancy. After being in labor for 2 days I could not stand the pain anymore. I had a complete tear from my child and landed [*sic*] up needing a blood transfusion from her being so big for my body. \* \* \* I then got a spinal headache from the epidural and needed a blood patch so I could take care of my child.

The anesthesiologists were not in USHL's network and so their charges were paid at the out-of-network rate. The Petitioner wants them paid at the network rate. She says she did not

plan to have an epidural because she knew the anesthesiologists at xxxxxx Medical Center, the closest hospital to her home, did not participate with USHL. When the need for the epidural arose, the Petitioner says, "There was nothing I could do because no anesthesiologist is covered under my plan out of xxxxxxRegional...."

Because the need for the epidural and blood patch was unforeseen and out of her control, the Petitioner wants the claims paid at the network level.

### Respondent's Argument

In its February 24, 2009, final adverse determination letter, USHL told the Petitioner:

The appeal that you submitted requesting reconsideration of dates of service December 2, 2008 and December 3, 2008 has been reviewed.

After careful consideration, it has been determined that benefits cannot be reconsidered under the policy.

According to the schedule of benefits out of network anesthesia services are subject to a \$250.00 deductible and payable at 60 percent of reasonable and customary amount. \* \* \* The payment of the charges were paid appropriately according to the schedule of benefits.

Under the terms of the certificate, anesthesia services from a network provider are subject to the \$150.00 network deductible and 20% coinsurance. Out-of-network anesthesia services are subject to the \$250.00 out-of-network deductible and 40% coinsurance.

USHL says that the benefit plan chosen by the Petitioner's employer has coverage for both network and out-of-network services:

The group insurance coverage provides certain benefits when the employees and dependents receive services from network providers and certain other benefits when they receive services from providers that are not in the network. The benefit amounts payable are based on the network status of the providers. Benefits are not based on the effort of the employees in attempting to obtain services from network providers or on the reasons they do not, such as an emergency. \* \* \* Benefits are based on whether a provider is in the network and provides a discount or is out-of-network. Benefits are not based on the availability of providers. [Underlining in original]

Since the anesthesiologists were not in USHL's network, the claims for their services

were processed as out-of-network services and the Petitioner had to pay 40% coinsurance (in addition to a deductible) instead of 20%. USHL says the difference between 20% and 40% coinsurance was \$424.00. (USHL accepted the anesthesiologist charges as its eligible amount so there was no balance billing.)

USHL believes its processing of the anesthesiology claims was correct under the terms of the certificate.

#### Commissioner's Analysis

The Commissioner reviewed the certificate and finds that USHL correctly processed the Petitioner's anesthesia claims. Under the terms of the Petitioner's coverage, USHL pays claims based on the network status of the provider. The Commissioner found nothing in the certificate that would compel USHL to pay claims from an out-of-network provider at the network rate, even under the circumstances described by the Petitioner. Since the anesthesiologists were not in USHL's network, the Petitioner was responsible for a 40% coinsurance after any deductible.

It is unfortunate that the need for special anesthesia services arose unexpectedly during the Petitioner's labor and delivery and that only non-network providers were available. Nevertheless, the Commissioner concludes and finds that the Petitioner's anesthesia claims were correctly handled by USHL under the terms of the certificate.

### **V ORDER**

The Commissioner upholds USHL's February 24, 2009, final adverse determination.

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

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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.