

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. 103991-001

v

Aetna Life Insurance Company
Respondent

Issued and entered
this 15th day of June 2009
by Ken Ross
Commissioner

ORDER
I
PROCEDURAL BACKGROUND

On April 1, 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 information and accepted the request on April 8, 2009.

The Commissioner notified Aetna Life Insurance Company (Aetna) of the external review and requested the information used in making its adverse determination. The company provided information on April 7, 2009.

The case presented a medical question so the Commissioner assigned it to an independent review organization, which provided its analysis and recommendation to the Commissioner on April 23, 2009.

II
FACTUAL BACKGROUND

The Petitioner, a medical student at XXXXX, has health care coverage under a student

insurance plan underwritten by Aetna. His benefits are defined in the "Student Accident and Sickness Insurance Plan Brochure" (the brochure)

In November 2008, the Petitioner's otolaryngologist requested authorization from Aetna for outpatient sinus surgery. Aetna denied the request, saying the surgery was excluded under the terms of the Petitioner's coverage.

The Petitioner appealed the denial and, after exhausting Aetna's internal grievance process, received Aetna's final adverse determination dated February 5, 2009.

III ISSUE

Is Aetna correct in denying coverage for the Petitioner's sinus surgery?

IV ANALYSIS

Petitioner's Argument

The Petitioner had a septoplasty and bilateral maxillary antrostomy in 2004. In November 2008 he was examined by XXXXX, MD, an otolaryngologist, and they discussed sinus surgery including bilateral revision maxillary antrostomy, a procedure to clear the sinus openings. The Petitioner explained his need for sinus surgery in his request for external review:

I have been suffering from multiple episodes of acute sinusitis for several years now. Conservative therapy continues to fail. My recent sinus CAT scan shows an anatomical abnormality which can only be resolved with surgery and is most likely entirely responsible for my continued infections.

The Petitioner believes the sinus surgery is medically necessary to treat his sinus condition and should be covered by Aetna.

Aetna Life Insurance Company's Argument

In its final adverse determination, Aetna told the Petitioner:

Based on our review . . . we are upholding the previous decision to deny sinus surgery because the information submitted demonstrates a chronic sinus condition and the benefits described under your student health plan require the condition to be acute purulent sinusitis.

Aetna cites these provisions in the brochure (under “Policy Exclusions and Limitations,” pp. 40, 44):

The Plan neither covers nor provides benefits for the following:

* * *

36. Expenses incurred for sinus surgery, except for acute purulent sinusitis.

* * *

41. Expenses incurred for elective treatment or elective surgery, except as specifically provided elsewhere in the Policy and performed while the Policy is in effect.

Aetna noted that according to Dr. XXXXX, the Petitioner is suffering from “chronic” not “acute” sinusitis.

Aetna believes its denial of coverage for the Petitioner’s sinus surgery was correct because it is not a covered benefit.

Commissioner’s Review

Since this case involved a medical issue, it was assigned to an independent review organization (IRO) for an analysis and recommendation. The IRO reviewer is board certified in otolaryngology, has been in practice for more than 10 years, and is familiar with the medical management of patients with the Petitioner’s condition. The IRO reviewer concluded that the requested sinus surgery is not for treatment of acute purulent sinusitis and not medically necessary at this time. The IRO report said:

The MAXIMUS physician consultant noted that the [Petitioner] underwent septoplasty and bilateral maxillary antrostomy in 2004. The MAXIMUS physician consultant also noted that the [Petitioner] presented with recurrent sinusitis three to four times per year. The MAXIMUS physician consultant further noted that the [Petitioner] is not using allergy therapy. The MAXIMUS physician consultant indicated that an endoscopic examination revealed maxillary sinus ostia obstruction by residual Haller cell and uncinate process. The MAXIMUS physician consultant noted that revision sinus surgery was recommended.

The MAXIMUS physician consultant explained that the [Petitioner] has chronic recurrent rhinosinusitis. The MAXIMUS physician consultant also explained that according to the literature, it is probable that the [Petitioner] would continue to be symptomatic after the requested surgery if maximal medical therapy is not undertaken for allergy control. [Citation omitted]

Therefore, the MAXIMUS physician consultant indicated that the requested surgery is not medically necessary for treatment of the [Petitioner's] condition at this time. The MAXIMUS physician consultant also indicated that this surgery is being requested for recurrent acute sinusitis, which is a chronic disease, rather than acute purulent sinusitis.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the requested sinus surgery is not for treatment of acute purulent sinusitis.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO's recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite "the principal reason or reasons why the commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise, and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in this case.

Therefore, the Commissioner accepts the conclusion of the IRO that the Petitioner's requested surgery is not for treatment of acute purulent sinusitis and is therefore excluded from coverage under the terms of his policy.

V ORDER

The Commissioner upholds Aetna Life Insurance Company's adverse determination of December 11, 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.