

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
XXXXX

Petitioners

File No. 102546-001-SF

v

Blue Cross Blue Shield of Michigan
Respondent

/

Issued and entered
this 26th day of June 2009
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On January 20, 2009, XXXXX, authorized representative of himself and his wife XXXXX (Petitioners), filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.* The Commissioner reviewed the request and accepted it on January 27, 2009.

The Petitioners are enrolled for health care coverage through employment with the XXXXX, a self-funded local government group. BCBSM administers the plan. Under Section 2(2) of Act 495, MCL 550.1952(2), the Commissioner conducts this external review as though the Petitioner was a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Commissioner notified Blue Cross and Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on February 5, 2009.

The issue in this external review can be decided by a contractual analysis. The contract

here is the BCBSM Community Blue Group Benefits Certificate (the certificate) which defines the Petitioner's health care benefits. 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

The Petitioners received flu and pneumonia immunizations in October and November 2007. BCBSM denied full coverage because it believes this care is not a benefit under the certificate. The denied charges total \$194.00.

The Petitioner appealed BCBSM's decision to deny coverage for the immunizations. BCBSM held a managerial-level conference on November 13, 2009, and issued a final adverse determination dated November 17, 2009.

III ISSUE

Is BCBSM required to cover the Petitioners' flu and pneumonia immunizations?

IV ANALYSIS

Petitioner's Argument

BCBSM has paid for the administration of the Petitioner's flu and pneumonia shots but denied coverage for the vaccines themselves. The Petitioners state that, because they are senior citizens and asthma patients, these immunizations are medically necessary. The immunizations were prescribed by both their specialist and their primary care doctor. They need these shots because their pulmonary health deteriorates during the winter.

The Petitioners argue that adult preventive care is a payable benefit under their certificate. Therefore, they believe that their flu and pneumonia immunizations are a covered benefit and BCBSM is required to pay for them.

BCBSM's Argument

BCBSM cites provisions in the certificate as the basis for its decision. Section 4 of the certificate, "Coverage for Physician and Other Professional Provider Services," (page 4.21) provides:

We pay for childhood immunizations as recommended by the Advisory Committee on Immunizations Practices and the American Academy of Pediatrics.

The certificate, therefore, does not provide coverage for adult immunizations. In addition, Section 6 of the certificate, "General Conditions of Your Contract," (page 6.1) states in part:

Care and Services That are Not Payable

We do not pay for the following care and services:

* * *

- Any service not listed in this certificate as being payable.

BCBSM says it does not dispute the medical benefits of flu and pneumonia immunizations as preventive measures. Many public and private organizations, agencies and other institutions make these immunizations available to individuals, particularly the elderly, at no or minimal charge. The beneficial aspects of the immunizations may be greater for individuals with conditions such as asthma. However, adult immunizations are not a covered benefit.

The Petitioners questioned why the administration of the immunizations was reimbursed when the vaccines themselves were not. BCBSM is reviewing this matter to determine whether the procedure code for the administration of the immunizations was reimbursed in error.

Commissioner's Review

Immunizations are not listed under the specific preventive services that are a covered benefit. The certificate only covers childhood immunizations. Immunizations for adults are not a covered benefit. The Commissioner finds that the flu and pneumonia immunizations the Petitioner received do not meet the definition of childhood immunization as stated in the certificate and therefore are not a covered benefit under the certificate language.

The Commissioner concludes that BCBSM has correctly processed the claims for

Petitioners' immunizations since they are not a covered benefit under the certificate.

V
ORDER

BCBSM's final adverse determination of November 17, 2008, is upheld. BCBSM is not required to pay for the Petitioners' immunizations.

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.