

**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. 102850-001

v

Aetna Life Insurance Company  
Respondent

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Issued and entered  
this 26<sup>th</sup> day of June 2009  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On February 5, 2008, 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 February 11, 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 February 11, 2009.

The case presented a medical question so the Commissioner assigned it to an independent review organization, which provided its analysis to the Commissioner on March 4, 2009.

**II**  
**FACTUAL BACKGROUND**

The Petitioner has group health care coverage with Aetna. Her benefits are defined in a

booklet-certificate (the policy).

At 26 weeks gestation, the Petitioner's alpha-fetoprotein (AFP) had increased. On September 18, 2008, an umbilical artery fetal Doppler velocimetry study (the Doppler study) was performed. Aetna denied coverage for the Doppler saying it was not medically necessary.

When the Petitioner appealed, Aetna reviewed the claim but upheld its denial. The Petitioner exhausted Aetna's internal grievance process and Aetna issued a final adverse determination dated January 8, 2009.

### **III ISSUE**

Is Aetna correct in denying coverage for the Petitioner's Doppler study on September 18, 2008?

### **IV ANALYSIS**

#### **Petitioner's Argument**

The Petitioner had a quad test at her OB/GYN physician's office that showed increased AFP, an indication of greater risk of neural tube defects. Because of the increased AFP, her OB/GYN physician wanted her to have an ultrasound.

On September 18, 2008, the ultrasound was performed and the technician found no reason for the increased AFP. According to the Petitioner, the technician mentioned that there could be problems with the umbilical cord that would elevate the AFP (e.g., it could become perforated) and would check for it. The technician performed the Doppler study. The Petitioner says she was not informed that there would be another test that might not be covered by her insurance.

The Petitioner says the Doppler study is necessary when an ultrasound alone shows no problems with the fetus and to make sure that no problems would go undetected if another ultrasound was not performed later. The Petitioner's obstetrician explained that the Doppler study "supersedes ultrasound findings of oligohydramnios and poor fetal growth. It frequently

predicts these problems a couple of weeks before those two tests are positive.”

The Petitioner argues that Aetna should provide coverage for the Doppler study because it was medically necessary for her condition.

#### Aetna Life Insurance Company's Argument

In its final adverse determination, Aetna denied the Doppler study on the basis that it was not medically necessary. Aetna cites this exclusion on page 43 of the policy:

**Non-medically necessary** services, including but not limited to, those treatments, services, **prescription drugs** and supplies which are not **medically necessary**, as determined by **Aetna**, for the diagnosis and treatment of **illness, injury**, restoration of physiological functions, or covered preventive services. This applies even if they are prescribed, recommended or approved by your **physician** or **dentist**.

Aetna also refers to its “Clinical Policy Bulletin: Antepartum Fetal Surveillance,” which says in part:

Umbilical artery Doppler velocimetry is considered medically necessary only in pregnancies complicated by intra-uterine growth restriction, oligohydramnios, twin-twin transfusion syndrome and/or discordant twins.

Aetna argues that the umbilical artery Doppler study was not medically necessary and thus no benefits are payable.

#### Commissioner's Review

Aetna's policy requires that services and treatment be medically necessary. In reviewing adverse determinations that involve issues of medical necessity or clinical review criteria, the Commissioner requests an analysis and recommendation from an independent review organization (IRO). The IRO expert reviewing this case is a licensed physician, board certified in obstetrics and gynecology, who has been in active practice for more than 10 years.

The IRO reviewer concluded that the Doppler study was not medically necessary. The IRO report said:

The results of the MAXIMUS physician consultant review indicate that this case involves an adult female who was pregnant and had an elevated maternal serum alpha-fetoprotein (MSAFP) test result, which indicated a risk of neural tube defects. An ultrasound was performed on 9/18/08 in

follow-up. The [Petitioner] was at 26 weeks gestation at this point. An umbilical artery fetal Doppler velocimetry study was also performed on 9/18/08. At issue in this appeal is whether the umbilical artery fetal Doppler velocimetry study was medically necessary for diagnosis and treatment of the [Petitioner's] condition.

The MAXIMUS physician consultant indicated that during the ultrasound performed on 9/18/08, the fetal growth and estimated fetal weight were normal. The MAXIMUS physician consultant explained that umbilical artery Doppler studies are useful in cases of intrauterine growth retardation and hypertensive complications, as well as in cases of twin gestation with discordant growth. The MAXIMUS physician consultant also explained that use of an umbilical artery Doppler study prior to signs of a complication remains investigational. The MAXIMUS physician consultant further explained that the use of this test prior to 28 weeks gestation is also investigational. The MAXIMUS physician consultant indicated that it is not standard of care to perform a uterine artery Doppler velocimetry study for elevation of an abnormal MSAFP result in the absence of other indications. [Citations omitted]

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the umbilical artery fetal Doppler velocimetry study that the [Petitioner] underwent on 9/18/08 was not medically necessary for diagnosis and treatment of her condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; 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. Therefore, the Commissioner accepts the conclusion of the IRO reviewer and finds that the Petitioner's umbilical artery Doppler study on September 18, 2008, was not medically necessary.

**V  
ORDER**

The Commissioner upholds Aetna Life Insurance Company's final adverse determination of January 8, 2009. Aetna is not required to cover the Petitioner's umbilical artery Doppler study.

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

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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