

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. 102388-001

v

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 22nd day of July 2009
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On January 9, 2009, XXXXX, on behalf of his minor daughter 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 16, 2009.

The Commissioner notified Blue Cross 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 January 27, 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). 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 Petitioner has spina bifida, a condition which impairs the ability to walk. On December 28, 2007, the Petitioner's physician performed a "gait analysis" at XXXXX Rehabilitation Hospital to

assist in fashioning leg braces for Petitioner. A claim for \$652.30 was filed with BCBSM for the physician review and interpretation of motion tests. BCBSM denied the claim. The Petitioner appealed BCBSM's denial of payment. BCBSM held a managerial-level conference on October 2, 2008, and issued a final adverse determination dated November 17, 2008.

III ISSUE

Did BCBSM correctly deny coverage for the Petitioner's claim?

IV ANALYSIS

Petitioner's Argument

According to Petitioner's father, prior to the Petitioner's gait analysis he called XXXXX Hospital and was assured that 100% of the test and the reading of the test would be covered by BCBSM. The same test was provided the Petitioner in 2004 and BCBSM covered it. The Petitioner's father does not believe that their certificate of coverage has changed since 2004.

He believes that the test was medically necessary to determine exactly how to make the Petitioner's leg braces. He believes that this test is a covered benefit and BCBSM is required to pay for it.

BCBSM's Argument

Section 6 the of the certificate states in pertinent part:

We do not pay for the following care and services:

- Any service not listed in this certificate as being payable

The Petitioner had services performed by Dr. XXXXX, M.D., at XXXXX Hospital. BCBSM denied payment of the claim for physician review of the gait analysis test, which is CPT 96004. BCBSM argues that this CPT is a physician interpretation of motion analysis which is not a benefit under any BCBSM certificate.

BCBSM agrees that the Petitioner may have had the same procedure in 2004, but the services, when submitted under CPT code 96004, were denied at that time as well, and for the

same reason. BCBSM says that the claim may have been resubmitted under a different CPT code and then paid.

BCBSM believes that it was correct to deny payment for the Petitioner's physician review of the gait analysis.

Commissioner's Review

The certificate states that BCBSM does not pay for services unless they are listed in the certificate as payable. Physician review of gait analysis is not listed as a covered benefit. It is not known why BCBSM paid for this care for the Petitioner in 2004, if it was indeed paid. BCBSM indicates that it denied procedure code 96004 in 2004 and it may have been paid under another code in error. What is known is that physician review of a gait analysis is not a covered benefit and BCBSM is not required to pay for it.

The Commissioner finds that BCBSM correctly applied the provisions of the Petitioner's certificate of coverage.

V ORDER

BCBSM's final adverse determination of November 17, 2008, is upheld. BCBSM is not required to cover the Petitioner's physician review of gait analysis provided on December 28, 2007.

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 60 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.