

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. 105145-001

v

Grand Valley Health Plan
Respondent

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

ORDER

**I
BACKGROUND**

On May 21, 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.* On May 29, 2009, after a preliminary review of the material submitted, the Commissioner accepted the request for external review.

The Commissioner notified Grand Valley Health Plan (GVHP) of the external review and requested the information used in making its adverse determination. The information was received on June 3, 2009.

The issue in this external review can be decided by an analysis of the contract that defines the Petitioner's health care benefits. The Commissioner reviews contractual issues under MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner is a member of GVHP. Her health care benefits are defined in the GVHP Group Subscriber Certificate of Coverage. The Petitioner has primary health coverage through GVHP and secondary coverage through Farm Bureau, her automobile insurance carrier.

On November 10, 2008, the Petitioner was involved in an automobile accident. She contacted GVHP's Beckwith Health Center about her treatment options. She described her symptoms stating, "I'm okay other than my back hurts between my shoulder blades and it hurts a little when I take a deep breath". She also complained of left calf pain. Based on her symptoms, Beckwith directed her to go to the XXXXX Emergency Room for evaluation. GVHP applied the covered expenses to the deductible leaving the Petitioner with a bill of \$706.68.

The Petitioner requested waiver of the deductible for the emergency room services. GVHP denied the request and the Petitioner appealed. At the conclusion of GVHP's internal grievance process the Petitioner received GVHP's final adverse determination letter dated May 7, 2009.

III ISSUE

Did GVHP properly deny the Petitioner waiver of a deductible for the emergency room services under the terms of the certificate?

IV ANALYSIS

Petitioner's Argument

In her March 24, 2009, member grievance form the Petitioner wrote:

I asked to go to Beckwith to be checked out. And then if needed I could have been sent to Emergency. I was only complaining of whiplash. I did not hit the windshield. I was checked over and sent home that day. I was not at fault, but my vehicle insurance is refusing to pay \$500 of the emergency room...

The Petitioner argues that she should not have to be responsible for the deductible since she wanted to go to Beckwith but was directed to the emergency room by a GVHP representative. She therefore wants GVHP to waive the deductible for the emergency room services.

Respondent's Argument

In its May 7, 2009, final adverse determination, GVHP upheld its denial to waive the deductible for emergency room services provided somewhere other than a GVHP Urgent Care Center. GVHP said "the Emergency Room was the most medically appropriate place of service for you at the time of the injury, and your plan deductible applies to Emergency Room Services." GVHP's decision was based on the following provision in the emergency care section of the certificate:

8.1 Coverage is provided for emergency services in cases of a medical emergency when authorized by a GVHP Participating Practitioner or authorized representative. A medical emergency: is defined as the unexpected or unforeseen onset of a traumatic bodily injury or life-threatening or disabling condition which, if not treated immediately, could reasonably be expected to result in serious physical impairment or loss of life.

In addition, Petitioner's certificate has a \$1500 deductible:

All services with the exception of: preventative health care services, GVHP health Center services, GVHP Diagnostic Radiology Center services, and GVHP Urgent Care Center Services, are subject to a \$1,500 deductible per member per contract year, up to a maximum of three deductibles per family per contract year.

GVHP argues that directing Petitioner to the emergency room was the appropriate action based on the description of her symptoms to the Health Center representative. In an internal review of this decision, a GVHP physician, Dr. XXXXX wrote, "Based on symptoms reported of back pain and pain with inspiration . . . referral to ER seems appropriate. Could have represented collapsed lung or more serious injury that would need acute evaluation."

GVHP states that the requested services required an emergency room visit. The \$1500 deductible provision does not list emergency room care as an exception for which the deductible

can be waived. GVHP therefore contends its denial was appropriate.

Commissioner's Review

It is unfortunate that the Petitioner's visit to the emergency room resulted in her paying the entire billed amount because she had not satisfied her \$1500.00 deductible. Nevertheless, GVHP's certificate amendment does include a \$1500.00 deductible for services which are not excluded by the \$1500.00 deductible provision. Emergency room services are subject to the Petitioner's deductible requirements.

The Commissioner finds GVHP's denial is consistent with the terms and conditions of the certificate. However, Petitioner may submit her emergency room obligation as a claim to XXXXX, her automobile insurance carrier, for consideration of secondary coverage. (It does not appear that all of Petitioner's charges were considered by XXXXX since it determined the amount of the bill as \$576.28 while GVHP considered a a total of \$706.68 for the care in question.)

**V
ORDER**

The Commissioner upholds GVHP's May 7, 2009, final adverse determination. GVHP is not required to waive the deductible for the Petitioner's November 20, 2008, emergency room visit.

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.