

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. 105998-001

v

US Health and Life Insurance Company
Respondent

Issued and entered
this 12th day of August 2009
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On July 7, 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 submitted and accepted the request on July 14, 2009.

The Commissioner notified US Health and Life Insurance Company (USHL) of the external review and requested the information used in making its adverse determination. The company provided information on July 8, 2009.

The issue here can be decided by an analysis of the terms of the certificate of group Insurance (the certificate), the contract that 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 Petitioner receives health care benefits from USHL as an eligible dependent through her husband's employment.

On April 29, 2009, while at work, the Petitioner had a grand mal epileptic seizure. Her coworkers called 911 and she was transported to the hospital by ambulance. The ambulance service, XXXXX, is not part of USHL's network of providers.

The Petitioner appealed USHL's processing of the ambulance claim. After the Petitioner completed its internal grievance process, USHL upheld its decision and issued a final adverse determination dated June 23, 2009.

III ISSUE

Did USHL correctly process the claim for ambulance service?

IV ANALYSIS

Petitioner's Argument

Under the certificate, out-of-network ambulance service is subject to a \$425 per person out-of-network deductible and 70% coinsurance while network ambulance service is only subject to a \$175.00 per person deductible. The Petitioner wants her ambulance transport claim covered as though it were a network benefit.

The Petitioner says that when she passed out at work, the episode was "an extreme life and death medical emergency." She says she had no choice in selecting the ambulance provider and no opportunity to look for a network ambulance service under the circumstances. She believes that USHL's contracts and member cards should contain information about network ambulance services so they could be contacted in such emergencies.

The Petitioner wants USHL to process the claim as a network service because she had no control over the selection of the ambulance service.

Respondent's Argument

USHL said in its final adverse determination:

According to the schedule of benefits, out of network ambulance services are subject to a \$425.00 deductible and payable at 70 percent of usual and customary amount. * * * The payment of the claim was made appropriately according to the schedule of benefits.

USHL further explained its decision in a letter to the Office of Financial and Insurance Regulation dated July 8, 2009:

As the [Petitioner is] aware, the group insurance coverage provided by the employer has both in-network benefits and out-of-network benefits. * * *

The group insurance coverage provides for deductibles, higher copays, and coinsurance for out-of-network benefits. The group insurance coverage provides certain benefits when the employee and dependents receive services from network providers and certain other benefits when they receive services from providers that are not in the network. The benefit amounts payable are based on the network status of the providers. Benefits are not based on the effort of the employees in attempting to obtain services from network providers or on the reasons they do not, such as an emergency. * * * There is no special handling for out-of-network emergencies.

USHL asserts that it processed the claim for the ambulance service according to the terms of the certificate.

Commissioner's Review

The Petitioner believes the ambulance service should be treated as a network benefit because she had no real opportunity to arrange for transport by a network ambulance provider under emergency conditions. However, there is nothing in the certificate or in state law requiring USHL to handle a claim for services from an out-of-network ambulance provider as a network service under the circumstances described by the Petitioner. Under the certificate, it is the network status of the provider that determines how the claim will be processed. In this case the ambulance provider was not a member of USHL's network and so USHL, following the terms of the certificate, processed the claim as an out-of-network benefit.

The Commissioner reviewed USHL's processing of the claim and finds that it is correct

under the terms of the certificate. The ambulance charge was \$686.00. USHL's eligible expense for the service (i.e., the usual and customary amount for such service) was \$666.53. Out-of-network ambulance service is first subject to the \$425.00 per person out-of-network deductible and then USHL pays 70% of the balance of the eligible expense.

As shown in this table, the Petitioner is responsible for \$394.43 of the ambulance charge:

	Item	Amount	USHL Paid	Petitioner's Responsibility
A	Ambulance Charge	\$ 686.00		
B	Ineligible Amount	(19.47)		\$ 19.47 ¹
C	USHL's Eligible Expense (A – B)	666.53		
D	Deductible Applied ²	(250.00)		250.00
E	Balance (C – D)	416.53		
F	USHL's Responsibility (70% of E)	291.57	\$ 291.57	
G	Petitioner's Coinsurance (30% of E)	124.96		124.96
	Totals		\$ 291.57	\$ 394.43

The Commissioner understands that the Petitioner was in no position to arrange for network transportation herself and that her coworkers were likely not aware of the possible financial consequences for the Petitioner when they called 911. Nevertheless, USHL correctly processed the claim for the ambulance services according to the terms of the certificate.

V ORDER

The Commissioner upholds USHL's adverse determination of June 23, 2009.

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

¹ Because the ambulance service is out-of-network, it does not have to accept USHL's eligible expense as payment in full, it may bill the Petitioner for this ineligible amount.

² Petitioner's certificate has a \$425.00 deductible for out-of-network services. At the time of this claim, Petitioner

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.

apparently had only \$250.00 remaining in order to meet the deductible requirement.