

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 84199-001

v

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 3rd day of December 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On October 4, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* The initial request was incomplete. After additional information was provided, the Commissioner accepted the request on October 11, 2007.

Because the case involved medical issues, the Commissioner assigned the case to an independent review organization (IRO) as required by section 11(6) of PRIRA, MCL 550.1911(6). The IRO provided its analysis and recommendation to the Commissioner on October 23, 2007.

II

FACTUAL BACKGROUND

The Petitioner receives health care benefits from Blue Cross and Blue Shield of Michigan (BCBSM) under its Individual Care Blue, a PPO health care benefit certificate (the certificate). Petitioner's coverage also includes BCBSM's EAS Emergency Ambulance Service rider.

The Petitioner was admitted to XXXXX on September 7, 2006 with the chief complaint of painful swelling in her lower back. On September 8, 2006 she was transferred to XXXXX by ground ambulance. XXXXX charged \$1,164.20 for the service. BCBSM denied payment for this care.

The Petitioner appealed BCBSM's denial of coverage for this care. After a managerial-level conference, BCBSM maintained its denial and issued a final adverse determination dated September 7, 2007.

III ISSUE

Did BCBSM properly deny reimbursement for the Petitioner's ambulance care provided on September 8, 2006?

IV ANALYSIS

Petitioner's Argument

The Petitioner needed to have emergency surgery on a rapidly growing tumor located on her lower back. XXXXX was unable to treat her. XXXXX was the closest facility that would take her. Other hospitals refused her because of the complexity of her case. She could not legally or safely ride in a passenger vehicle because of the location of the tumor. An ambulance was the only way for her to go from one hospital to the other.

BCBSM will not pay for the Petitioner's ambulance ride because it did not believe Petitioner's condition constituted a medical emergency. The Petitioner argues that because of the tumor and because she had internal bleeding that her condition was an emergency. Therefore, she believes that her ambulance ride is a covered benefit and BCBSM is required to pay for it.

BCBSM's Argument

BCBSM provides coverage for medically necessary ambulance services required for

emergency transportation. BCBSM cites provisions in the certificate as the basis for its denial. The rider defines emergency ambulance transportation as:

Medically necessary ground and air ambulance transportation provided for the sudden onset of a medical emergency or accidental injury if it manifests itself by signs and symptoms of sufficient severity including:

- severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the patient's health or pregnancy
- serious impairment of bodily functions
- serious dysfunction of any bodily organ or part

The records from XXXX indicate that the Petitioner was alert and well hydrated and appeared to be in no acute distress. According to hospital records, "she remained stable and comfortable throughout her stay in the Emergency Department" of XXXXX. Thus BCBSM believes that there was no "sudden onset of a medical emergency or accidental injury" that her condition could result in serious bodily harm or threaten life unless treated immediately.

BCBSM argues that the Petitioner's ambulance care does not meet the definition of "emergency ambulance service" and is, therefore, not a covered benefit.

Commissioner's Review

The question of whether the Petitioner's condition constituted an emergency was presented to an IRO for analysis. The IRO reviewer is a physician board-certified in emergency medicine and has been in practice for more than ten years.

The IRO reviewer noted that according to the medical records provided for review, the Petitioner's symptoms consisted of pain and swelling, which started suddenly after she had been exercising and progressed over several hours to the point that she was unable to lie down. The mass was continually expanding during several hours the Petitioner spent in the emergency department, which caused significant alarm to the treating emergency room physician. This physician was concerned enough about the extent of active hemorrhage that a hematocrit was repeated, and that the Petitioner was monitored for hemodynamic instability.

The Petitioner was experiencing a medical emergency that continued to manifest itself while she was in the emergency department with worsening signs and symptoms of sufficient severity such that the absence of emergency medical attention could reasonably have been expected to result in serious jeopardy to her health. The type of emergency medical attention the Petitioner required could not have been provided at the hospital where she was being treated in the emergency room. The IRO physician concluded that the Petitioner required emergency ambulance transportation to a facility that could provide treatment of her condition and that the ambulance transportation she received on September 8, 2006 was required by her medical emergency.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded great 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 and finds that the worsening signs and symptoms of the Petitioner were of sufficient severity such that the absence of emergency medical attention could reasonably have been expected to result in serious jeopardy to her health. Therefore, the ambulance transportation the Petitioner received to XXXXX meets the definition of emergency ambulance transportation set forth in the certificate and is a covered benefit.

V ORDER

The Commissioner reverses BCBSM's September 7, 2007, final adverse determination regarding the Petitioner's ambulance services on September 8, 2006. BCBSM is required to provide coverage for that service within 60 days and shall provide the Commissioner with proof of payment no later than seven days after payment is made.

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 the circuit court of Ingham

County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.