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
v **File No. 85313-001**

Blue Cross and Blue Shield of Michigan
Respondent
_____/

Issued and entered
this 13th day of November 2007
by Ken Ross
Acting Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On September 21, 2007, XXXXX, authorized representative of her twenty-one year old daughter XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Services under Public Act No. 495 of 2006, MCL 550.1951 *et seq*. The Commissioner reviewed the request and initially determined it was incomplete. After additional information was provided the Commissioner accepted it for external review on October 8, 2007.

Section 2(2) of Act 495, MCL 550.1952(2), requires that the Commissioner conduct this external review as though the Petitioner were a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*.

The Petitioner has health care coverage through XXXXX. The coverage is administered by Blue Cross and Blue Shield of Michigan (BCBSM). The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Office

of Financial and Insurance Services received BCBSM's response on October 9, 2007.

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

On June 4, 2007, the Petitioner received an immunization shot (Gardasil) for the human papilloma virus (HPV). The charge for this service was $211.00 and BCBSM denied coverage for it.

The Petitioner appealed BCBSM's denial. BCBSM held a managerial-level conference and issued a final adverse determination dated August 1, 2007.

III
ISSUE

Is BCBSM required to pay for the Petitioner's HPV immunization?

IV
ANALYSIS

Petitioner's Argument

The Petitioner, a twenty-one year old college student, has been diagnosed with Hashimoto's disease. This disease is an autoimmune disorder in which the immune system inappropriately attacks the thyroid gland, causing damage to the thyroid cells and upsetting the balance of chemical reaction in the body.

Since her immune system is compromised, the Petitioner's doctors recommended that she receive the Gardasil immunization that protects against HPV. The vaccine is recommended and approved by the FDA for woman up to age 26, especially those with compromised immune systems.

BCBSM failed to cover the Petitioner's vaccination for HPV because it says it only pays for childhood immunizations and the Petitioner is an adult. The Petitioner does not believe this is fair

since Gardasil is a new vaccine and was not offered until recently. It is her position that BCBSM is required to pay for this immunization.

BCBSM's Argument

Section 4 of the certificate, *Coverage for Physician and Other Professional Services,* explains (on page 4.21 under "Preventive Care Services") what BCBSM covers for immunizations:

> We pay for childhood immunizations as recommended by the Advisory Committee on Immunization Practices and the American Academy of Pediatrics.

Under the terms of the certificate, BCBSM says it pays only for childhood immunizations. It is undisputed that the Petitioner was an adult on the date of her HPV immunization. Therefore, BCBSM believes that the immunization is not a covered benefit under the certificate and it is not required to pay for it.

Commissioner's Review

The Commissioner is sympathetic to the Petitioner's situation. Her doctors' recommended she receive the HPV vaccination because of her compromised immune system. However, the certificate describes what benefits are paid. It explains that BCBSM pays for "childhood immunizations" as recommended by the Advisory Committee on Immunizations Practices and the American Academy of Pediatrics. The Petitioner was 21 years old when she had the HPV immunization and therefore she no longer qualified for childhood vaccinations.

The Advisory Committee on Immunization Practices' 2007 recommended child and adolescent immunization schedule says:

> - The new human papilloma virus vaccine (HPV) is recommended in a 3-dose schedule with the second and third doses administered 2 and 6 months after the first dose. Routine vaccination with HPV is recommended for females aged 11-12 years; the vaccination series can be started in females as young as age 9 years; and a catch-up vaccination is recommended for females aged 13-26 years who have not been vaccinated previously or who have not completed the full vaccine series.[1]

[1] http://www.cdc.gov/vaccines/recs/schedules/child-schedule.htm#printable

The American Academy of Pediatrics' "Recommended Immunization Schedules for Children and Adolescents – United States, 2007," includes this recommendation:

> - The addition of human papilloma virus vaccine for girls 11 to 12 years of age, with catch-up immunization of girls 13 to 18 years of age. This vaccine, administered intramuscularly in a 3-dose series at 0, 2, and 6 months is expected to prevent most cases of cervical cancer and genital warts.[2]

The HPV vaccination was undoubtedly important for the Petitioner. However, BCBSM's immunization benefits are clearly limited during those administered through childhood. The petitioner was beyond childhood at the time she received the HPV vaccination and the Commissioner finds that the June 4, 2007, HPV immunization was therefore not a covered benefit under the certificate, which only covers childhood immunizations.

V
ORDER

BCBSM's final adverse determination of August 1, 2007, is upheld. BCBSM is not required to cover the Petitioner's June 4, 2007, HPV immunization.

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 the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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[2] http://aappolicy.aappublications.org/cgi/reprint/pediatrics;119/1/207.pdf