

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. 112913-001

v

Priority Health
Respondent

**Issued and entered
this 5th day of January 2011
by Ken Ross
Commissioner**

ORDER

**I
BACKGROUND**

A

On June 28, 2010, XXXXX, on behalf of her 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 (PRIRA), MCL 550.1901 *et seq.*

Priority Health was notified of the request for external review and on June 29, 2010, furnished the information used in making its final adverse determination. On July 6, 2010, after a review of the material submitted, the Commissioner accepted the request for external review.

The Petitioner has group health care coverage from Priority Health, a health maintenance organization. Her benefits are defined in the certificate of coverage (the certificate).

This case involves medical issues. Therefore, the Commissioner assigned the matter to an independent review organization which submitted its recommendation on November 1, 2010.

B

According to her mother, the Petitioner has pyroluria, a condition said to be a genetically determined chemical imbalance involving an abnormality in hemoglobin synthesis. On June 23, 2009, the Petitioner had a consultation and testing at the XXXXX Treatment Center (XXXXX) in XXXXX, Illinois, a facility specializing in the treatment of biochemical imbalance. XXXXX is not in Priority Health's network.

Priority Health denied coverage for the consultation and testing on the basis that care was available from network providers and because the Petitioner had not requested or received prior authorization for out-of-network services at XXXXX as required by the certificate.

The Petitioner requested an external review of that denial under PRIRA. In an order issued on May 14, 2010,¹ the Commissioner upheld Priority Health's adverse determination because the Petitioner had not requested prior authorization for the services at XXXXX.

C

The Petitioners then requested authorization from Priority Health for a June 24, 2010, visit as well as additional follow-up treatment at XXXXX. Priority Health again denied coverage. The Petitioner appealed the denial through Priority Health's internal grievance process and at its conclusion received a final adverse determination letter dated June 8, 2010. It is that final adverse determination that is the subject of this external review.

II ISSUE

Did Priority Health properly deny the Petitioner coverage for services at XXXXX under the terms of the certificate?

III ANALYSIS

Petitioner's Argument

¹ XXXXX v *Priority Health*, file no. 108884-001.

When the Petitioner developed anxiety and behavioral issues at school, her mother concluded she had pyroluria. After a discussion with her daughter's primary care physician, the Petitioner's mother decided she would seek treatment at XXXXX.

In her request for external review, the Petitioner's parents wrote:

[The Petitioner's] medical diagnosis is Pyroluria. This diagnosis was found through clinical testing (see blood tests and urine analysis enclosed.) It is a rare condition requiring treatment out of Priority Health's (PH) network. All the medical doctors PH has suggested for [the Petitioner] assure us they do not treat this condition and encourage us to continue our current plan of treatment as the results prove effective.

We tried to get prior approval this year and have been denied suggesting "an accepted standard of care is available in network." Although no one in network treats this condition. What Priority is suggesting is that we seek a different diagnosis – that would be an incorrect diagnosis. . .

PH must rule out an organic basis for symptoms of disease. In review of the DSM-IV TR (Diagnostic and Statistical manual for mental disorders, fourth edition text revision) used to diagnose psychiatric illness PH would know that [the Petitioner's] condition is not found here. Therefore, it is impossible for Priority in good faith to say that [the Petitioner] does not have an organic basis for her condition and this should allow us to continue our necessary treatment at [XXXXX].

* * *

- Priority Health's letter in response to my request for out of network outpatient services on May 26, 2010 suggest that we are treating our daughter in a holistic, homeopathic acupuncture yoga, reiki, massage or rolf type of treatment. What an unusual response to the request for the XXXXX Treatment Center. . . .

* * *

- Pyroluria is a medical condition with treatment providing nutrient management of biochemical and trace metal disorders. This is a medical condition see CPT codes, medical testing and findings.

* * *

The treatment plan we are following is working very well for [her] and to change this would be disastrous, to say the least. Imagine taking [her] off the program that is working miracles for her and begin searching for an in-network diagnosis to please Priority. This is certainly not in [her] best interest.

The Petitioner wants the services at XXXXX to be covered by Priority Health at the out-of-network benefit level.

Respondent's Argument

In its June 8, 2010, final adverse determination Priority Health's grievance appeal committee said:

After review...of the clinical documentation sent to Priority Health, it was determined that treatment for pyroluria at... XXXXX...is not a covered benefit.

The Certificate of Coverage, Section 6, Covered and Non-Covered Services, Letter A. Homeopathic, and Holistic Services, excludes acupuncture and other non-traditional services including but not limited to holistic and homeopathic treatment, yoga, Reiki, massage therapy and Rolf therapy. Therefore we are unable to approve coverage for treatment of pyroluria at XXXXX Treatment Center. Covered traditional medical and behavioral health services are available within Priority Health's network of providers. The accepted standard of care is available in plan. In Addition, nutritional supplements are not a covered benefit as outlined in the Prescription Drug Certificate Rider, Section 5, Non-Covered Services, multivitamins and nutritional supplements.

* * *

During the Appeal Committee meeting, the Physician Reviewer asked [the Petitioner's mother] when [Petitioner] was last seen by her Pediatrician. [The Petitioner's mother] responded that her last visit was August 2009. The Physician Reviewer also asked...if she had tried to find care in plan for an evaluation with a specialist in Endocrinology or Behavioral Health. [The Petitioner's mother] indicated she did not look in plan for treatment or evaluation options for her daughter.

Priority Health declined to approve the Petitioner's treatment at XXXXX because it believes it is nontraditional and that the accepted standard of care is available from network providers.

Commissioner's Review

The certificate excludes coverage for non-traditional services (Section 6, p. 16):

Homeopathic and Holistic Services

Non-Covered Services

Acupuncture and other non-traditional services including, but not limited to, holistic and homeopathic treatment, yoga, Reiki, massage therapy and Rolf therapy.

In order to determine if the services at XXXXX are non-traditional or alternative medicine, the Commissioner assigned this case to an independent review organization (IRO) for

analysis and recommendation. The IRO reviewer is a practicing physician who is board certified in pediatrics and holds an appointment at a large academic medical center. The IRO report said:

The MAXIMUS independent physician consultant, who is familiar with the medical management of patients with the [Petitioner's] condition, has examined the medical record and the arguments presented by the parties.

The results of the MAXIMUS physician consultant's review indicate that this case involves a 7 year-old female who has been diagnosed with pyroluria. At issue in this appeal is whether the services that [she] received from the XXXXX Treatment Center on 6/24/10 and future services from this facility are non-traditional alternative medicine services.

The MAXIMUS physician consultant noted that the [Petitioner] has been receiving treatment from the XXXXX Treatment Center for a condition that causes her to hurt other children, pick her skin and make poor behavior choices. The MAXIMUS physician consultant also noted that the description of the [Petitioner] from her elementary school details behavior that could be indicative of attention deficit disorder or oppositional defiant disorder. The MAXIMUS physician consultant indicated that no records from the [Petitioner's] pediatrician were provided for review. The MAXIMUS physician consultant also indicated that there is no evidence that the [Petitioner] has been evaluated by a psychologist or psychiatrist. The MAXIMUS physician consultant explained that the information provided in the XXXXX Treatment Center's discussion of Elevated Histamine levels, which is a diagnosis that was given to the [Petitioner], states "A diagnosis of ADD or Oppositional Defiant Disorder is common.... They may benefit nicely from Paxil, Zoloft, and other serotonin-enhancing medications." Therefore, the MAXIMUS physician consultant indicated that there are other standard treatments available that the [Petitioner] has not tried.

The MAXIMUS physician consultant noted that the diagnosis of pyroluria is a diagnosis in the branch of orthomolecular medicine. The MAXIMUS physician consultant indicated that this diagnosis is controversial. The MAXIMUS physician consultant also indicated that orthomolecular medicine is more common in the complementary and alternative medicine fields.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the services that the [Petitioner] received from the XXXXX Treatment Center on 6/24/10 and future services from this facility are non-traditional alternative medicine services.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner accepts the IRO reviewer's conclusion and finds that the treatment at XXXXX is non-traditional and not the standard of care for the Petitioner's condition and is therefore excluded under the terms and conditions of the certificate.

IV ORDER

The Commissioner upholds Priority Health's June 8, 2010, final adverse determination. Priority Health is not required to cover the Petitioner's services at XXXXX.

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.