

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
001

File No. 77354-

Petitioner

v

US Health and Life Insurance Company
Respondent

Issued and entered
this 12th day of January 2011
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On August 10, 2006, 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 and accepted the request on August 17, 2006.

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 the information on August 24, 2006.

The issue here can be decided by applying the terms of the prescription drug rider (rider), the amendment to the Petitioner's certificate of coverage that defines her drug 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 has group health care coverage from USHL through her husband's employment. That coverage was effective February 1, 2006.

In June 2006 USHL denied coverage for the prescription drug Ridaura, saying it was excluded under the rider. The Petitioner has taken Ridaura for a number of years to treat her rheumatoid arthritis.

On the Petitioner's appeal, USHL reviewed her request for an exception but upheld its denial. A final adverse determination was issued June 16, 2006.

III ISSUE

Is USHL required to provide coverage for the Petitioner's prescription drug Ridaura?

IV ANALYSIS

Petitioner's Argument

The Petitioner has treated with rheumatologist XXXXX, M.D., since the 1990s for rheumatoid arthritis. Dr. XXXXX prescribed Ridaura, an oral alternative to injectable gold therapy for the management of rheumatoid arthritis.

Dr. XXXXX wrote to USHL on June 12, 2006, saying:

[The Petitioner] has been a patient in our office since May of 1995, and has been receiving Ridaura during that entire length of time.¹ The Ridaura has kept her rheumatoid arthritis under good control. Any substitution to this medication or any other treatment would not only be more expensive for the [Petitioner], but non-effectual in the control of her arthritis. If further consideration could be given regarding the approval of Ridaura for [the Petitioner], I would appreciate it.

¹ The record contains notes from an initial consultation with Dr. XXXXX dated February 13, 1990, indicating that Ridura was prescribed at that time.

The Petitioner believes USHL should make an exception and cover the drug because she needs it to control her disease.

Respondent's Argument

The Petitioner's request for coverage of the drug Ridaura was considered and denied in USHL's final adverse determination because the rider "excludes drugs in the class of gold compounds. Ridaura is in this class of drugs."

USHL says the two-tier prescription drug plan selected by the employer of the Petitioner's husband does not include benefits for any gold compounds, and therefore its denial was in accord with the terms of the rider.

Commissioner's Review

The Petitioner's prescription drug benefits are described in the rider. The rider includes covered drugs categorized by both brand name and generic equivalent that can be obtained when medically necessary, and also lists covered drugs that must be approved in advance by USHL before they are dispensed.

The rider further says:

The Formulary is not a complete list of drugs. Drugs not listed on the Formulary may be obtained as long as they are listed as covered in the Covered Prescription Drugs section of this Rider, not excluded under the Prescription Drug Exclusions section of this Rider and the appropriate Copay is paid.

The rider also contains this caveat:

Please note this list [of drugs in the rider] is not intended to be a complete list of Drugs that are covered. Neither is it intended to be a complete list of Brand Name Drugs with or without Generic Drug equivalents. It is a list of the more commonly used drugs. If a Brand Name Drug is not listed...it may still be covered if it is not excluded....

The formulary contains exclusions. While it does not exclude Ridaura by name, it does exclude drugs in the gold compound class, which includes Ridaura. Based on that exclusion, the Commissioner finds that USHL correctly applied the terms of the prescription drug rider and

upholds its denial for coverage of the Petitioner's Ridaura.

V
ORDER

The Commissioner upholds USHL's final adverse determination of July 16, 2006. USHL shall furnish the Petitioner a list of drugs on its formulary to treat rheumatoid arthritis

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.