

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. 108341-

001

v

Humana Insurance Company
Respondent

Issued and entered
this 21st day of January 2011
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On November 5, 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 (PRIRA), MCL 550.1901 *et seq.*

Humana Insurance Company (Humana) was notified of the external review request and was asked to submit the information used in making its adverse determination. Humana provided the information and documents on November 9, 2009. The Petitioner's request for review was accepted by the Commissioner on November 12, 2009.

The issue here can be decided by applying the terms of the Petitioner's insurance policy. 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 individual health care coverage underwritten by Humana. Her benefits are defined in the policy issued by Humana.

The Petitioner has been diagnosed with osteoporosis and has bone loss. On August 17, 2009, she received Reclast, which was administered and billed by her physician. Humana covered the injection but applied the “eligible covered expense” of \$1,420.50 towards the Petitioner’s network medical deductible instead of treating it as a prescription drug benefit.

The Petitioner appealed Humana’s determination. After the Petitioner completed its internal grievance process, Humana affirmed its decision in a final adverse determination dated October 28, 2009.

III ISSUE

Did Humana correctly process the Petitioner’s claim for Reclast?

IV ANALYSIS

Petitioner’s Argument

The Petitioner had taken Fosamax once weekly for five years but it caused digestive problems. She considered Boniva and Actonel for the treatment of her osteoporosis but decided against them because of cost and the frequency of use. She researched other choices and settled on Reclast, which is administered only once a year by intravenous infusion.

In an undated letter accompanying her request for external review, the Petitioner explained her reason for disputing Humana’s processing of the claim for Reclast:

I have an issue with Humana One in the way they define a prescription drug.

* * *

My issue with Humana One is that I have a co-pay on my pharmaceuticals and Reclast cost me \$1,420.51 which includes an insurance adjustment fee \$22.32 because Humana One Care considers the Reclast treatment a medical procedure and put it on my [medical] deductible rather than paying for the pharmaceutical. Most insurance companies according to the Novartis makers of Reclast code the pharmaceutical as other instead of a medical procedure. I was preauthorized by Humana One not knowing the cost I would incur. . .

Humana applied the \$1,420.50 charge for the Reclast infusion to the Petitioner's annual medical deductible, which is \$6,000.00, and not her annual prescription drug deductible, which is only \$500.00. The Petitioner wants Humana to cover her claim for Reclast as a pharmaceutical under her prescription drug benefit and not as a medical procedure.

Respondent's Argument

In its October 28, 2009, adverse determination, Humana explained its decision on coverage for Reclast:

After thoroughly reviewing the available information, we determined the services processed correctly toward your medical benefits. The Reclast injection was provided and supplied by your health care practitioner. Therefore, the services would not apply toward your pharmacy benefits as they were provided your health care practitioner. Reimbursement is based on (but not limited to), the service performed, the type of provider utilized, and the place of service. In order to maintain consistency in claim processing, among other legal considerations, claims are processed and reimbursed based on the claim information submitted for consideration. [Emphasis added]

Humana believes it was correct when it categorized the Reclast infusion as a medical service and applied the eligible covered expense to the Petitioner's network medical deductible and not her prescription drug deductible.

Commissioner's Review

The Commissioner notes that if Reclast had been provided to the Petitioner by a participating pharmacy, the prescription drug provisions in her policy would have applied. This would have resulted in lower out-of-pocket cost for the Petitioner because the prescription drug deductible is lower.

However, the Reclast was provided and administered by her physician; she received the drug by infusion (CPT code 96365) in her physician's office. Humana's decision to apply the covered amount toward the Petitioner's annual Individual medical deductible of \$6,000.00 was consistent with the service performed, the type of provider utilized, and the place of service.

The Commissioner finds Humana correctly processed the Petitioner's claim under the terms

of the certificate.

V
ORDER

The Commissioner upholds Humana's adverse determination of October 28, 2009. Humana is not required to pay any additional amount for the Petitioner's Reclast injection.

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.