

**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. 114653-001**

**v**

**Blue Cross Blue Shield of Michigan**  
**Respondent**

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**Issued and entered**  
**this   18th   day of February 2011**  
**by Ken Ross**  
**Commissioner**

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On August 4, 2010, XXXXX, authorized representative of her daughter XXXXX (Petitioner),<sup>1</sup> 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 request and accepted it on August 11, 2010.

The issue in this external review can be decided by a contractual analysis. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

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1. From September 24, 2009 to July 9, 2010 XXXXX of XXXXX Guardian Services in XXXXX, Michigan served as the Petitioner's medical guardian pursuant to an order of the XXXXX County Probate Court. On July 9, 2010, Petitioner's mother, XXXXX, became her medical guardian. A request for external review was originally filed with the Office of Financial and Insurance Regulation (OFIR) in May 2010 by Ms. XXXXX. However, at that time the Petitioner had not completed the BCBSM internal grievance process. OFIR cannot accept a request for external review until the internal grievance process has been completed. The internal grievance process was completed June 7, 2010.

## II FACTUAL BACKGROUND

The Petitioner is 27 years-old and has a long history of treatment for eating disorders. She receives medical benefits as an eligible dependent under her husband's health care coverage. Her benefits are defined in the BCBSM *Community Blue Group Benefits Certificate*.

Petitioner received inpatient eating disorder treatment at XXXXX Hospital in XXXXX from April 29, 2009, to June 25, 2009; at XXXXX Hospital in XXXXX from September 13, 2009, to September 21, 2009; and at XXXXX Hospital from October 1, 2009, to November 12, 2009. These hospitalizations were covered by BCBSM.

On November 12, 2009, the Petitioner was admitted to the XXXXX in XXXXX for further treatment of her eating disorder. XXXXX does not participate with Blue Cross Blue Shield. At the time of her admission to XXXXX, BCBSM notified Petitioner and her guardian that the XXXXX treatment would not be covered because outpatient mental health services are not covered when provided by non-participating providers. The Petitioner remained at XXXXX until December 22, 2009. The total charge for the XXXXX care was \$82,650.00.

The Petitioner, through her guardian, appealed BCBSM's denial. After a managerial-level conference on May 26, 2010, BCBSM did not change its position. A final adverse determination was issued by BCBSM on June 7, 2010.

## III ISSUE

Is BCBSM required to pay for the Petitioner's treatment at the XXXXX?

## IV ANALYSIS

### Petitioner's Argument

In her request for external review, Petitioner's medical guardian, XXXXX, wrote:

XXXX was admitted into the XXXXX on 11-12-09 at 11:08 am. Blue Cross was contacted from XXXXX at 2:34 pm. They advised XXXX not be admitted. There would be no coverage. Blue Cross told the XXXXX in

XXXXX Blue Cross does not participate with them. XXXXX didn't want to go there. She was being transferred from XXXXX Hospital by her doctor. XXXXX had no legal right to sign herself in. That should have been done by legal medical guardian. I feel XXXXX is not responsible for this amount -- \$82,650.00.

### BCBSM's Argument

In its final adverse determination, BCBSM wrote:

You are enrolled for coverage with our *Community Blue Group Benefits Certificate*. As indicated on Page 3.55 of the certificate, "If the provider is nonparticipating, you will need to pay most of the charges yourself. Your bill could be substantial because BCBSM coverage at nonparticipating hospitals is limited to services needed to treat an accidental injury or medical emergency." Because your admission did not fall into either category, we must maintain our denial of payment. Staff in our Mental Health Services Unit contacted the facility to negotiate a rate due to your condition. However, the facility would not accept our offer. As a result, we must maintain our denial of payment because the facility is nonparticipating.

### Commissioner's Review

The BCBSM *Community Blue Group Benefits Certificate* provides on page 3.56:

BCBSM does not pay for services at nonparticipating outpatient physical therapy facilities, mental health or substance abuse treatment facilities. . . .

There is no provision in the certificate that BCBSM is required to cover non-emergency services provided at a nonparticipating hospital or facility.

The Petitioner's present medical guardian argues that Petitioner had no legal right to admit herself to the XXXXX. Under PRIRA, the Commissioner's role is limited to determining whether a health plan has properly administered health care benefits under the terms of the applicable insurance contract and the Michigan Insurance Code. Determination of the Petitioner's obligation to pay for medical care at a time when a medical guardianship was in effect is not a dispute the Commissioner has the authority to resolve.

The Commissioner finds that the care provided the Petitioner at the XXXXX from November 12, 2009, through December 22, 2009, is not a covered benefit. BCBSM's denial of coverage is consistent with the terms of its certificate of coverage.

**V**  
**ORDER**

BCBSM's final adverse determination of June 7, 2010, is upheld. BCBSM is not required to provide coverage for the Petitioner's care at the 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.

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Ken Ross  
Commissioner