

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. 112353-001

v

Blue Care Network of Michigan
Respondent

Issued and entered
this _ 9th_ day of March 2011
by Ken Ross
Commissioner

ORDER

I
BACKGROUND

On June 18, 2010, 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.*

On June 25, 2010, after a preliminary review of the material submitted, the Commissioner accepted the request for external review. Blue Care Network of Michigan (BCN) submitted the information used in making its adverse determination on July 2, 2010.

The issue in this external review can be decided by an analysis of the contract that defines the Petitioner's health care benefits. The Commissioner reviews contractual issues under MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner is a member of BCN. Her health care benefits are defined in the Blue Care Network *BCN 10 Certificate of Coverage* and its related *Healthy Blue Living Rider*.

Petitioner was originally enrolled in the “enhanced level” Healthy Blue Living program in October 2008. The enhanced level of the program gives an enrollee favorable copayments and deductibles if the enrollee documents participation in specified healthy behavior certified by the enrollee’s physician. BCN concluded in 2009 that the Petitioner did not qualify for the enhanced level because she had not submitted the required certification. Petitioner was conditionally re-enrolled in the program on October 1, 2009, and was given 90 days to complete requirements to stay in the program’s enhanced level. On January 1, 2010, BCN terminated the Petitioner’s enrollment in the enhanced level and returned her to the standard plan because she failed to complete the renewal requirements by December 31, 2009. Petitioner claims BCN did not provide her with the certification paperwork.

The Petitioner appealed her termination from the enhanced plan through BCN’s internal grievance process. BCN maintained its denial and sent the Petitioner its final adverse determination letter dated June 1, 2010.

III ISSUE

Did BCN properly deny the Petitioner continued coverage in the enhanced level of BCN’s Healthy Blue Living program?

IV ANALYSIS

Petitioner’s Argument

The Petitioner is requesting her coverage in the Healthy Blue Living program be restored to the enhanced level for January and February 2010. (In March 2010, Petitioner’s health care

coverage with her new employer began.) In her June 18, 2010, request for external review, the

Petitioner states:

I was laid off in August of 2009 from my employer. I paid for COBRA. I got a new job in December 2009. I was told by someone at BCN that since I would be getting a new [insurance] in March of 2010 I would not need to fill out the paperwork for Health Blue Living which I had been in since being with BCN.

Without my knowing until I started receiving bill[s] from Dr. XXXXX I was disenrolled in the Healthy Blue Living. So my visits & services provided by Dr. XXXXX was at a higher [deductible]. I am asking that they reinstate me in the Healthy Blue Living for Jan. [and] Feb. of 2010. I never received anything from BCN asking me to fill out the papers or that I was no longer in the program.

Because she incurred costs for office visits during the time she was not enrolled, Petitioner wants BCN to cover her January and February 2010 costs at the enhanced benefit level.

Respondent's Argument

BCN states that a re-enrollment package was mailed to the Petitioner on September 15, 2009, but Petitioner did not comply with the requirements. In its June 1, 2010 final adverse determination, BCN offered this explanation for not restoring the Petitioner to the enhanced benefit program:

The required documentation to remain in the enhanced benefit level was not submitted within the required time period. We did not receive your Health Assessment (HA) or Health Qualification Form (HQF) by the deadline of December 31, 2009, in the approved enrollment time period. Therefore . . . your contract will remain in the standard benefit level. Our records indicate your coverage with Blue Care Network terminated on February 28, 2010.

BCN contends that changing the Petitioner's coverage to the standard plan was consistent with the terms of the rider.

Commissioner's Review

Health maintenance organizations are permitted to offer wellness programs like Healthy Blue Living that provide for reduced copayments, coinsurance, or deductibles if certain

conditions are met. See MCL 500.3426. To participate in BCN's Healthy Blue Living enhanced benefit plan, eligible members must meet the rider's conditions which include the following:

HOW TO EARN THE HEALTHY LIVING ENHANCED BENEFITS IN THE FIRST YEAR OF ENROLLMENT

Upon enrollment each Healthy Living Eligible Member will receive Enhanced Benefits for a 90-day period. To continue receiving the Enhanced Benefits each Healthy Living Eligible Member must take the following steps:

1. Within 90 days of enrollment each Healthy Living Eligible Member must complete a Health Risk Assessment (HRA) and a Healthy Living Enrollment Form which will assess the Member's medical condition and/or lifestyle behavior in relation to the following areas:
 - Blood pressure
 - Smoking
 - Cholesterol
 - Blood sugar
 - Weight
 - Alcohol use

* * *

HOW TO EARN THE HEALTHY LIVING ENHANCED BENEFITS IN SUBSEQUENT YEARS OF ENROLLMENT

- Healthy Living Eligible Members who have qualified to earn Enhanced Benefits in their preceding year may continue to earn Enhanced Benefits by following the steps outlined in "How to Earn the Healthy Living Enhanced Benefits in the First Year of Enrollment," above. These steps will begin on the date of renewal of each year of enrollment.

Program re-enrollment was contingent on the Petitioner again meeting the requirements of the rider by December 31, 2009. However, the Health Assessment (HA) and Health Qualification Form (HQF) were not completed prior to the deadline.

The Petitioner contends that BCN gave her incorrect information over the telephone. Under the Patient's Right to Independent Review Act, the Commissioner's role is limited to determining whether BCN properly administered health care benefits under the terms and conditions of the applicable insurance certificate and state law. A review under PRIRA lacks the hearing procedures necessary to make findings of fact based on conflicting versions of events such as whether or not the Petitioner was correctly informed about enrollment requirements.

**V
ORDER**

The Commissioner upholds BCN's June 1, 2010, final adverse determination. BCN is not required to restore the Petitioner's enrollment in the Healthy Blue Living program from January 1, 2010 to February 28, 2010.

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.

Ken Ross
Commissioner