

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. 117062-001

v

UHC Insurance Company
Respondent

Issued and entered
this 25th day of March 2011
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On September 17, 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.*

UHC Insurance Company (UHC) was notified of the external review and requested to provide the information used in making its adverse determination. The Office of Financial and Insurance Regulation received the information from UHC on September 22, 2010. The Commissioner reviewed the information and accepted the request on September 24, 2010.

The issue here can be decided by applying the terms of the contract defining the Petitioner's health care 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

Petitioner is covered under the *UHC Choice Plus* certificate of coverage issued to her husband's employer.

The Petitioner requested authorization for bariatric surgery. UHC denied the request on the basis that bariatric surgery is specifically excluded under the terms of the certificate, and therefore is not a covered benefit.

Petitioner appealed UHC's denial of coverage for the bariatric surgery through its internal grievance process. UHC upheld its original determination and issued a final adverse determination dated August 16, 2010.

III ISSUE

Did UHC properly deny coverage for bariatric surgery under the terms of the certificate?

IV ANALYSIS

Petitioner's Argument

In a letter addressed to UHC dated July 27, 2010, Petitioner indicated that she believes bariatric surgery could save or change her life. Petitioner also disclosed that she needs the surgery as a tool to assist her with obtaining a healthier lifestyle. Petitioner says that she wants the surgery to prevent any future medical problems that may possibly develop due to excessive weight, such as hypertension, diabetes type 2, heart disease, stroke, and breathing difficulties.

Petitioner and her physician believe bariatric surgery is medically necessary for the treatment of her condition.

Respondent's Argument

In its August 16, 2010 final adverse determination, UHC denied coverage for bariatric surgery stating that under her benefit plan, surgical and non-surgical treatment of obesity is excluded from coverage. UHC asserts that it took proper action in denying coverage for the bariatric surgery requested.

Commissioner's Review

The certificate of coverage under which Petitioner receives health care benefit includes this provision:

Section 2: Exclusions and Limitations:

* * *

L. Procedures and Treatments

* * *

11. Surgical and non-surgical treatment of obesity.

The certificate is clear that bariatric surgery is explicitly excluded under the terms of the certificate. While being sympathetic to the Petitioner's circumstance, the Commissioner's authority under the PRIRA is limited to determining whether a claims denial is consistent with the terms of an insurance contract and state law. The insurer's denial of coverage is consistent with its certificate of coverage and no statute requires an insurer to provide coverage based solely on a physician's finding that a particular medical service is medically necessary.

On this basis the Commissioner finds that UHC correctly applied the terms of the policy in denying coverage for the bariatric surgery.

**V
ORDER**

The Commissioner upholds UHC's final adverse determination of August 16, 2010. UHC is not required to provide coverage for the bariatric surgery.

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