

**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. 117297-001

v

Principal Life Insurance Company  
Respondent

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

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On September 30, 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 October 7, 2010, after a preliminary review of the material submitted, the Commissioner accepted the request.

The Commissioner notified Principal Life Insurance Company (Principal) of the external review and requested the information used in making its adverse determination. The Commissioner received Principal's response on October 8, 2010.

The case involves medical issues so it was assigned to an independent review organization which provided its recommendation to the Commissioner on October 21, 2010.

**II**  
**FACTUAL BACKGROUND**

The Petitioner has health care coverage with Principal under a group plan. His benefits are

defined in a certificate of coverage (the certificate).

The Petitioner had a history of chronic knee pain since 1985. From January 4 through February 25, 2010, he received injections of Hyalgan in both knees to treat the pain. Principal denied coverage for these injections.

The Petitioner appealed the denial through Principal's internal grievance process. Principal did not change its decision and issued a final adverse determination dated August 3, 2010.

### **III ISSUE**

Was Principal correct in denying coverage for the Petitioner's injections?

### **IV ANALYSIS**

#### **Petitioner's Argument**

The Petitioner told Principal in an undated letter how he had benefited from the injections:

Over the years, I have tried everything from physical therapy, to anti-inflammatory drugs, to icing, to lifestyle changes with no relief. I even had to give up simple things like bowling and driving a stick-shift vehicle. These injections have given me my life back. I have been able to work out, lose weight and regain control of my life. Even though the injections have proved to be very successful, I would have opted to not have them had I known of this expense. I had lost my job and home due to the economy and simply would not have been able to afford them.

In the same letter the Petitioner noted:

Prior to receiving these injections I called [Principal] and verified coverage and was told "yes, they will be covered". I am now being told that I was supposed to get information to you prior to receiving the injections. My physician has complied by sending the information you requested of him. You are also now asking me to get information on my past medical history with my knees. This will prove very difficult, as my problems began prior to 1985 when I had arthroscopic surgery done on them.

The Petitioner's physician explained the need for the pain injections in a letter to Principal dated February 22, 2010:

The [Petitioner] has Degenerative Joint Disease of both knees with decreased range of motion. [He] has been prescribed Lyrica and other

anti-inflammatory medications with no relief. He was then given Hyaluraonate injections in both knees.

The Petitioner believes the injections are medically necessary to provide pain relief and he wants Principal to cover them.

### Respondent's Argument

In its August 3, 2010, final adverse determination, Principal gave its reasons for denying coverage:

The Principal Life Insurance Company (PLIC) medical director...was given the opportunity to explain Principal's position on the case. He summarized the medical information provided in the file. The issue was the January to February 2010 series of injections into the knee joint of hyaluronic acid derivatives (Hyalgan medication). This treatment is appropriate for osteoarthritis (degenerative joint disease) of the knee when other conservative treatments have failed. The physician (family, practice specialty), has written in the office notes that there was DJD (degenerative joint disease) present in both knees.

This is a diagnosis that should be confirmed by x-ray findings or arthroscopic findings. The x-ray report findings do not mention osteoarthritis findings, but rather note the presence of calcified patellar tendonitis.

Therefore as there is not evidence of DJD/knee osteoarthritis, there is not an indication for the use of hyaluronic derivative (Hyalgan medication) injections into the knees.

In an October 8, 2010, letter to the independent review organization, Principal said that it denied coverage for the injections because they are experimental or investigational and not the generally accepted standard of care for the Petitioner's condition.

### Commissioner's Review

The certificate excludes coverage for services that are experimental or investigational. The certificate includes the following provision on p. 62:

#### **Limitations**

Covered Charges will not include and no benefits will be paid for:

\* \* \*

- Treatment or Service that is an Experimental or Investigational Measure. (The denial of any claim on the basis of the exclusion of coverage for experimental or investigational Treatment or

Service may be appealed through the procedure prescribed in the notice of that claim decision);

On p. 105 of the certificate is this definition:

**Experimental or Investigational Measures** mean any Treatment or Service, regardless of any claimed therapeutic value, not Generally Accepted by specialists in that particular field of medicine.

Thus, the certificate requires that any treatment be generally accepted by medical specialists, i.e., medically necessary.

In reviewing adverse determinations that involve questions of medical necessity or clinical review criteria, the Commissioner obtains a review and recommendation from an independent review organization (IRO) as required by Section 11(6) of the Patient's Right to Independent Review Act. The IRO reviewer for this case is a physician certified in orthopedic surgery who holds an academic appointment at a large academic medical center and has been in active practice for over twenty years. The IRO reviewer recommended that Principal's denial be upheld.

The IRO report said in part:

The MAXIMUS Independent physician consultant, who is familiar with the medical management of patients with the [Petitioner's] condition, has examined the medical record and the arguments presented by the parties.

The results of the MAXIMUS physician consultant's review indicate that this case involves an adult who has a history of knee pain. At issue in this appeal is whether the Hyalgan injections that the [Petitioner] received from January to February 2010 were medically necessary for treatment of the [Petitioner's] condition.

The MAXIMUS physician consultant indicated that the [Petitioner] does not have radiographic evidence of degenerative arthritis of the knee. The MAXIMUS physician consultant explained that the x-rays of the [Petitioner's] knee did not show arthritis. The MAXIMUS physician consultant also explained that the [Petitioner] does not meet recognized criteria for the use of Hyalgan injections.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the Hyalgan injections that the [Petitioner] received from January to February 2010 were not medically necessary for treatment of his condition.

The Commissioner is not required in all instances to accept the IRO recommendation. However, the IRO reviewer's conclusion is afforded deference by the Commissioner because it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case.

The Commissioner accepts the conclusion of the IRO reviewer and finds that the Petitioner's injections were not medically necessary for his condition and therefore were excluded from coverage.

The Petitioner also said that he contacted Principal and was told the injections would be covered. However, there is nothing in the record from which the Commissioner could conclude that Principal had approved or authorized the injections.

**V  
ORDER**

The Commissioner upholds Principal Life Insurance Company's adverse determination of September 30, 2010. Principal is not responsible for the Hyalgan injections in January and February 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.

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Ken Ross  
Commissioner