

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. 114681-

001

v

Blue Cross Blue Shield of Michigan
Respondent

_____ /

Issued and entered
this 8th day of April 2011
by Ken Ross
Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On September 23, 2010, XXXXX, authorized representative of 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.* The Commissioner reviewed the request and accepted it on September 30, 2010.

The Commissioner notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on October 7, 2010.

The issue in this external review can be decided by a contractual analysis. The contract here is BCBSM's *Community Blue Group Benefits Certificate* (the certificate). 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 is enrolled for health care coverage through an underwritten group.

From June 30 to September 15, 2009, the Petitioner received inpatient (residential) and outpatient substance abuse treatment at the XXXXX in XXXXX, XXXXX. The charge for this care was \$61,840.50. BCBSM denied coverage because it was provided in a nonparticipating facility.

The Petitioner appealed BCBSM's denial. BCBSM held a managerial-level conference on August 31, 2010, and issued a final adverse determination dated September 10, 2010, upholding its denial.

III ISSUE

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

IV ANALYSIS

Petitioner's Argument

The Petitioner says that BCBSM denied coverage for her care at XXXXX at each level and found a different reason each time. According to the Petitioner, the claims were mishandled from the start. After being told the claims could not be processed because of missing or erroneous codes, a minimal portion of the claim was paid and then BCBSM said the payments were made in error. When the correct codes for inpatient substance abuse rehabilitation were submitted, BCBSM denied the care because it excludes substance abuse coverage if provided in a facility that is not a BCBS "approved" facility. The Petitioner says that the only time an approved facility is referenced is with regard to outpatient care. The Petitioner argues that her care at XXXXX was for inpatient care.¹ The Petitioner believes that her substance abuse care was medically necessary and

¹ The Petitioner describes her treatment as inpatient hospital care. However, the services were actually residential and outpatient services at an alternative facility, not a hospital.

a covered benefit under the certificate. She argues that BCBSM is required to pay the \$15,000.00 annual maximum allowed under the certificate.

BCBSM's Argument

BCBSM says the Petitioner's certificate provides a benefit for outpatient and residential substance abuse treatment only when the facility is a BCBSM participating and approved provider. If the services are received outside of Michigan, the facility must participate with a local BCBS plan.

BCBSM denied coverage based on the following language in the certificate:

Section 3: Coverage for Hospital, Facility and Alternatives to Hospital Care

Hospital and Facility Care

- This section has information about benefits provided in or by a **participating** hospital or facility.

* * *

NOTE: Inpatient mental health services and substance treatment are subject to a 50 percent member copayment as well as a \$15,000 annual and \$30,000 lifetime maximum.

* * *

Outpatient and Residential Substance Abuse Treatment

We pay for treatment of substance abuse in **participating** residential and outpatient substance abuse treatment programs.

On pages 3.55 and 3.56, the certificate also states:

Nonpanel Providers

- If the provider is participating, we will pay our approved amount directly to the provider.... The provider accepts our payment as payment in full, less any copayments or deductible you are required to pay.

* * *

- 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.

* * *

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

It is BCBSM's position that coverage for the Petitioner's admission and stay at XXXXX from June 30 through September 15, 2009, was correctly denied because XXXXX does not participate with either BCBSM or a local Blue Cross or Blue Shield plan. The certificate requires that substance abuse treatment take place at a participating facility.

BCBSM also said that the Petitioner provided an itemization of the services for payment. Some of these services were reported as having been performed in an "office" setting and were therefore approved and reimbursed. It was later confirmed that those services were provided in a facility and not an office and therefore should not have been paid. BCBSM says, however, that it has agreed not to recall those payments.

Commissioner's Review

Under the terms of the certificate it is clear that outpatient and inpatient substance abuse treatment is only covered when it is provided by a facility that participates with BCBSM or a local Blue Cross or Blue Shield plan. Such treatment in a facility that does not participate with BCBS is not a covered benefit.

BCBSM indicated that Brookside does not have a signed agreement with BCBSM or a local BCBS plan to accept the BCBS approved amount as payment in full. Therefore, it would not be considered a participating provider. The Petitioner provided no information that Brookside participates with BCBSM or a local BCBS plan. Therefore, the Commissioner concludes that XXXXX is a nonparticipating provider and the substance abuse treatment the Petitioner received there from June 30 to September 15, 2009, is not a covered benefit under the certificate.

The Commissioner finds that the Petitioner's claims in this case were processed correctly according to the terms and conditions of the certificate.

V ORDER

BCBSM's final adverse determination of September 10, 2010, is upheld. BCBSM is not

required to pay an additional amount for the Petitioner's care at XXXXX.

This is a final decision of an administrative agency. Any person aggrieved by this Order may seek judicial review no later than 60 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. See MCL 550.1915(1), made applicable by MCL 550.1952(2). 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