

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 114998-001

v

Health Alliance Plan of Michigan
Respondent

Issued and entered
this 28th day of April 2011
by R. Kevin Clinton
Commissioner

ORDER

I
BACKGROUND

On August 12, 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 August 19, 2010 after a preliminary review of the information submitted the Commissioner accepted the request.

The Commissioner notified Health Alliance Plan of Michigan (HAP) of the external review and requested the information it used in making its adverse determination. The information was received the on August 26, 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 HAP. Her health care benefits are defined in the HMO Subscriber Contract (the contract) and HAP's Health Engagement Program rider (the rider), which adds a wellness program to her coverage. The Health Engagement Program promotes and rewards good health by offering "enhanced benefits" (lower copayments, coinsurance, and deductibles) if certain conditions are met. Members who do not qualify for enhanced benefits receive standard benefits and must pay more out of pocket for covered services.

In 2009 the Petitioner qualified for enrollment in the Health Engagement Program at the enhanced benefits level. To remain at the enhanced benefits level, she had to complete an enrollment form and have it validated by her primary care physician (PCP). She also had to complete an online Health Risk Assessment (HRA) form by March 31, 2010.

HAP terminated the Petitioner's enrollment at the enhanced benefits level on March 31, 2010, and placed her in the standard benefits level effective April 1, 2010, because she did not submit the HRA form on time.

The Petitioner unsuccessfully appealed her termination from the enhanced benefits level through HAP's internal grievance process and received its final determination letter dated July 29, 2010.

III ISSUE

Did HAP properly remove the Petitioner from the enhanced benefits level of the Health Engagement Program?

IV ANALYSIS

Petitioner's Argument

The Petitioner believes that she should be placed back at the enhanced benefits level because she completes all annual preventive examinations and maintains a healthy lifestyle.

She says her failure to complete the HRA form on time was simply an oversight during a time she was dealing with both work and health issues. She notes that her physician completed the enrollment form by the deadline, but she did not complete the HRA form until June 24, 2010, after the deadline. Being removed from the enhanced benefits level has created a financial burden for her because of her health condition.

The Petitioner seeks reinstatement in the enhanced benefits level as of April 1, 2010.

Respondent's Argument

HAP says the Petitioner did not complete the HRA form until June 24, 2010, well after the March 31, 2010, deadline. In its July 29, 2010, final adverse determination, HAP told the Petitioner:

[P]lease be reminded that in order for you to have remained with the cost-saving Enhanced Plan, you must have completed the online iStrive Health Risk Assessment (HRA) . . . which [was] due by March 31, 2010.

As stated in our letter to you dated July 13, 2010, our records showed that you had completed the HRA on February 6, 2009, which was prior to the qualification period of October 1, 2009 through March 31, 2010, but you failed to complete the HRA within the qualification period.

HAP says it sent the Petitioner reminders on January 26 and February 23, 2010, about the March deadline. HAP reminded the Petitioner that the HRA form she completed in February 2009 was for an earlier eligibility period and was not relevant for the current qualification period.

HAP contends that its decision to place the Petitioner's in the standard benefits level was consistent with the terms of the Health Engagement Program.

Commissioner's Review

Health maintenance organizations like HAP are permitted to offer wellness programs like the Health Engagement Program that provide financial incentives to members for achieving and maintaining good health. See MCL 500.3426. HAP's member guide explains how its program works:

You have two benefit plan options with the HAP *Health Engagement Program*: **Standard** and **Enhanced**. When you enroll you are automatically placed in the Enhanced plan with lower out-of-pocket costs for your first 90 days of coverage. To remain in the Enhanced plan you and your covered spouse will need to complete the following steps within 90 days of your enrollment:

- Complete the online HAP iStriveSM Succeed Health Risk Assessment (HRA)
- Meet with your personal care physician (PCP) to complete your Member Qualification Form (MQF) online or return the paper MQF signed by your physician back to HAP. Your MQF must be signed by a HAP contracted physician.
- Meet specific wellness targets or commit to participating in health improvement programs or treatment plans

At the end of the 90-day period, if you and your spouse have not completed these three steps, you will be placed in the Standard plan for the remainder of your benefit year. With the Standard plan, you still have access to the same quality care and physicians, but you will pay more out-of-pocket for your health care.

There is no dispute in the record that the Petitioner's HRA form was not submitted on time. Since the criteria to remain at the enhanced benefits level were not met, Petitioner does not qualify to remain at the enhanced benefits level. There are no exceptions in the rider that would require HAP to reinstate the Petitioner at the enhanced benefits level.

The Commissioner concludes that HAP's decision to place the Petitioner at the standard benefits level was in accord with the terms of the Health Engagement Program. The Petitioner may qualify for the enhanced benefits level during the next benefit year.

V ORDER

The Commissioner upholds HAP's July 29, 2010, final adverse determination. HAP is not required to return the Petitioner to the enhanced plan as of April 1, 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.

R. Kevin Clinton
Commissioner