

**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. 116855-001

v

Physicians Health Plan of Mid-Michigan  
Family Care  
Respondent

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**Issued and entered  
this 28<sup>th</sup> day of April 2011  
by R. Kevin Clinton  
Commissioner**

**ORDER**

**I  
BACKGROUND**

On September 3, 2010 XXXXX, on behalf of her of her preschool-age son 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 (PRIRA), MCL 550.1901 *et seq.* The XXXXX are appealing a denial of coverage for speech therapy.

The Petitioner is a member of Physicians Health Plan of Mid-Michigan Family Care (PHP), a Medicaid health plan. Petitioner's benefits are defined in the PHP's certificate of coverage and the Medicaid Provider Manual. PHP was notified of the request for external review and furnished the information it used in making its final adverse determination. On September 13, 2010, after a preliminary review of the material submitted, the case was accepted for external review.

An independent medical review organization (IRO) was assigned to analyze the medical issues presented by the case, as required under section 11(6) of the PRIRA, MCL 550.1911(6). The IRO report was received on September 27, 2010.

## II FACTUAL BACKGROUND

On May 5, 2010, Petitioner underwent a speech pathology evaluation by the Hospital pediatric rehabilitation department. The evaluating physician recommended Petitioner receive speech therapy twice a week for a total of 26 sessions. Petitioner's parents requested PHP provide coverage for the therapy. PHP denied the request and issued a final adverse determination on August 27, 2010.

## III ISSUE

Did PHP properly deny coverage for Petitioner's speech therapy?

## IV ANALYSIS

### Petitioner's Argument

In her July 26, 2010, letter to PHP Petitioner's mother explained:

Having been a preschool/kindergarten teacher I have been concerned about XXXXX's speech since he began to make sounds as an infant. . . . I know at times it is hard to figure out what children are saying, but at times/most often his speech is unclear and can not be understood, even though we ask him to speak slowly and repeat himself several times. This affects his emotions, lack of speaking skills, self esteem, and confidence. XXXXX will be starting preschool in September of 2010. To help this process go as positive as possible I am requesting that he receive speech services from XXXXX as quickly as possible. The sooner [Petitioner] receives these services the sooner he can [sic] the appropriate speech skills for his age.

The Petitioner's mother maintains Petitioner's speech condition warrants speech therapy. Therefore, she wants PHP to provide coverage.

### Respondent's Argument

In its August 27, 2010, final adverse determination, PHP wrote, "Our appeal committee

reviewed your appeal for coverage of speech therapy for your son. Your appeal was denied because your benefits do not include coverage of speech therapy not related to a medical diagnosis." PHP based its decision on the following provision of the Certificate:

**Section 10: General Exclusions**

\* \* \*

- B. Services and supplies not required to be provided in accordance with the Medicaid provisions of the Medicaid program.

PHP also cited the Medicaid Provider Manual which includes this provision:

**Section 19 – Speech Language Therapy**

Medicaid covers medically necessary speech and language therapy services that meet the requirements of this section. A physician must order the evaluations and prescribe the therapy.

**For all beneficiaries:** Speech therapy must relate to a medical diagnosis.

PHP argues its denial was appropriate because Petitioner does not require speech therapy due to a medical diagnosis.

Commissioner's Review

PHP's certificate provides coverage for speech therapy when provided for a medical diagnosis. The question of whether the requested services were provided for a medical diagnosis, was presented to an independent review organization (IRO). The review was conducted by a physician in active practice published in peer reviewed medical literature. The reviewer is certified by the American Board of Pediatrics in general pediatrics and is a member of the American Academy of Pediatrics and the American Medical Association.

The IRO report included this analysis:

The [Petitioner] has normal expressive and receptive language but suffers from an articulation disorder affecting his speech intelligibility. While he has had ear infections in the past, it does not appear that these are related to his current speech problems.

The [Petitioner's] contract states that speech therapy must be related to a medical diagnosis. Coverage is limited to services for articulation, language, rhythm, swallowing, training in the use of an augmentative communication device, training in the use of an oral-pharyngeal prosthesis, or voice. In addition, therapy must be reasonable, medically

necessary, and expected to result in improvement and/or elimination of the stated problem within a reasonable amount of time. Per the contract, an example of medically necessary therapy would be when the treatment is required due to a recent change in the [Petitioner's] medical or functional status affecting speech and the beneficiary would experience a reduction in medical or functional status were the therapy not provided.

Private speech therapy does appear to be an appropriate treatment of preschool articulation disorders. Per a Cochrane Review performed by Law et al and recommendations made by Nelson et al, [citations in attached IRO report] when looking at the effectiveness of speech therapy for these young children, "effectiveness was considered significant for both the phonological and vocabulary interventions." In addition, for children aged three (3) to five (5) years, five (5) fair-quality studies have reported significant improvements for those children in this age group undergoing interventions compared with controls. . . .

Even though speech therapy for this [Petitioner] appears to be the standard of care in the medical community per Cochrane database and the US Preventive Services Task Force reviews, speech therapy for this child with a significant phonological disorder does not meet medical necessity criteria per the enrollee's certificate of coverage as it is not related to a medical diagnosis; therefore, coverage was appropriately denied as a contract exclusion.

The IRO reviewer recommended upholding PHP's denial of coverage for speech therapy.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO's recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner accepts the conclusion of the IRO and finds that speech therapy is not related to a medical diagnosis. Therefore, PHP's denial of coverage for the requested

service was appropriate under the terms of its certificate.<sup>1</sup>

**V**  
**ORDER**

The Commissioner upholds PHP's August 27, 2010, final adverse determination in this matter. PHP is not required to provide coverage for the speech therapy requested for Petitioner.

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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R. Kevin Clinton  
Commissioner

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<sup>1</sup> Petitioner's mother also exercised her right to have a Medicaid-authorized hearing provided by the Michigan Department of Community Health. In that hearing, the administrative law judge also determined PHP's denial should be upheld.