

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**BEFORE THE COMMISSIONER OF FINANCIAL AND INSURANCE REGULATION**

**XXXXXX**

**Petitioner**

**v**

**File No. 120157-001**

**US Health and Life Insurance Company**

**Respondent**

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**Issued and entered**  
**this 19th day of May 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On March 21, 2011, 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 case was accepted on March 23, 2011.

The case involves medical issues so the matter was assigned to an independent review organization, which submitted its analysis on April 6, 2011.

**II. FACTUAL BACKGROUND**

The Petitioner receives health care benefits through her husband's employer, the XXXXX. This is a fully insured plan issued to the Coalition of Public Safety Employees Health Trust.

Petitioner is a 56 year old female who had a stem cell transplant approximately four years ago at the XXXXX Center. On January 14, 2010 and September 14, 2010, the Petitioner had follow-up tests ordered by her XXXXX physicians. The tests are known as STR tests, an acronym for "short tandem repeats" which refers to DNA sequences. STR is a form of genetic testing employed, in this context, to monitor the health status of an individual who has undergone a bone marrow transplant. (STR tests may also be used in parentage testing and forensic human identity testing.) USHL denied coverage for this testing, ruling that the tests were not medically necessary for treatment of her condition.

### **III. ISSUE**

Were Petitioner's tests medically necessary?

### **IV. ANALYSIS**

#### Petitioner's Argument

The Petitioner's physician, Dr. XXXXX, in a letter dated November 3, 2010, explained the need for the tests:

Post transplant, it is medically necessary to perform laboratory diagnostic tests and ongoing restaging of her disease status. The peripheral blood STR or VNTR is periodically performed to prove her disease status or remission post transplant. The STR can be performed instead of an invasive procedure. The invasive procedure is a bone marrow biopsy.

#### Respondent's Argument

In a letter dated November 24, 2010, USHL explained their denial of coverage:

Based on an independent medical review it has been determined that STR testing performed on January 14, 2010 and September 14, 2010 were not medically necessary and appropriate. According to our independent medical review, STR testing is not established or accepted by the medical community for the diagnosis submitted.

#### Commissioner's Review

USHL's policy excludes coverage for services that are not medically necessary. The question of whether Petitioner's STR tests were medically necessary was presented to an independent medical review organization for analysis as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The assigned IRO reviewer is board certified in hematology and oncology, holds an academic appointment, and has been in practice for more than 13 years.

The IRO reviewer's report included these comments:

[T]his case involves a 56 year-old female who underwent an allogenic peripheral blood stem cell transplant for treatment of myelofibrosis. The member underwent chimerism analysis with peripheral blood STR testing. At issue in this appeal is whether the SRT testing that the member underwent on 1/14/10 and 9/14/10 was medically necessary for diagnosis and treatment of her condition.

STR testing is performed to assess the level of donor engraftment after allogeneic

stem cell transplantation....[E]arly methods of assessing the level of donor engraftment were based on analyses of erythrocyte antigens, leukocyte isoenzymes or conventional cytogenetics, but...these methods were time consuming and/or had limited sensitivity and quantitative accuracy....[I]n the 1980's methods of assessing the level of donor engraftment based on restriction fragment length polymorphisms analysis were developed, but have been progressively abandoned, due in part to the large amounts of DNA required....[C]urrently, fluorescent *in situ* hybridization of sex chromosomes (XY-FISH) and polymerase chain reaction (PCR) based analysis of polymorphic DNA sequences, such as variable number of tandem repeats (VNTR) or short tandem repeats (STR), are the most widely used techniques for assessing chimerism....[T]hese techniques are accepted as the standard of care.

The IRO reviewer concluded that the STR tests the Petitioner received on January 14, 2010 and September 14, 2010, were medically necessary for treatment of the Petitioner's condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO 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 finds that Petitioner's STR tests were medically necessary and are a covered benefit under the policy.

## V. ORDER

The Commissioner reverses USHL's November 24, 2010, final adverse determination. USHL is required to provide coverage for Petitioner's January 14, 2010 and September 14, 2010, STR tests within 60 days of the date of this Order and shall, within seven days of providing coverage, provide the Commissioner with proof it has implemented this Order. See section 11(17) of the PRIRA, MCL 550.1911(17):

Upon receipt of a notice of a decision...reversing the adverse determination or final adverse determination, the health carrier immediately shall approve the coverage that was the subject of the adverse determination or final adverse determination.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free (877) 999-6442.

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