

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. 118874-001

v

United Healthcare Insurance Company
Respondent

Issued and entered
this 20th day of June 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On January 5, 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 Commissioner notified United Healthcare Insurance Company (UHC) of the external review and requested the information it used in making its adverse determination. The Commissioner received the information on January 7, 2010. On January 12, 2011, after a preliminary review of the material submitted, the Commissioner accepted the request for external review.

The Petitioner's group health care benefits are defined in the UHC Choice Plus certificate of coverage (the certificate). The issue here can be decided by applying the terms of 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

After being diagnosed with prostate cancer, the Petitioner's urologist scheduled him for a PET/CT scan, CPT code 78815, "tumor imaging, positron emission tomography (PET) with concurrently acquired computed tomography (CT) . . . skull base to mid-thigh." The scan was performed on September 16, 2010, at the XXXXX. The charge for the scan was \$5,541.00.

XXXXX is not in UHC's network of providers. UHC covered the scan as a non-network service, first applying \$4,000.00 to the Petitioner's the non-network deductible and then paying 70% of the balance (\$1,078.70). This left Petitioner responsible for the out-of-pocket deductible of \$4,000.00 and the 30% coinsurance of \$462.39, totaling \$4,462.30.

The Petitioner appealed UHC's handling of the claim. After completing UHC's internal grievance process, the Petitioner received UHC's final adverse determination dated November 8, 2010, upholding its original determination.

III. ISSUE

Did UHC correctly process the claims for Petitioner's PET/CT scans?

IV. ANALYSIS

Petitioner's Argument

The Petitioner says he advised his urologist that all services needed to be scheduled with network providers. After the scan was performed the Petitioner learned that XXXXX was not part of UHC's network. He says neither the urologist's office nor XXXXX told him that the scan would be performed by a non-network provider.

The Petitioner faults the urologist's office staff because they scheduled the scan with Genesys after Petitioner said that he wanted to see only network providers. He believes that his urologist should cover the amount he owes because he advised the urologist's office staff numerous times that he only wanted to utilize network providers. Alternatively, the Petitioner

wants UHC to process the claim as a network service and accept XXXXX offer to settle the claim in full for \$3,946.00.

Respondent's Argument

In its November 8, 2010 final adverse determination, UHC told the Petitioner:

According to your Benefit Plan, section entitled Schedule of Benefits, covered healthcare services received from a non-network provider are payable at 70% of eligible expenses after you have satisfied the annual non-network deductible.

Because the claim(s) for this service(s) was processed according to the above plan provision(s), our original determination remains unchanged, and the determination is upheld. Our decision does not reflect any view about the medical appropriateness of these services(s). Only you and your physician can make decisions about your medical care.

You are responsible for verifying the participation status of a provider before you receive the services. You may verify the participation status of a provider by contacting United Healthcare's Customer Care department . . .

UnitedHealthcare processes claims as they are submitted by the provider of the services. We are unable to tell the provider how to bill for the service(s) received or change how a claim(s) is submitted. . . .

Since Genesys is not in UHC's network, the claim for the scan was processed as a non-network service, which is paid at 70% after the annual non-network deductible is satisfied.

UHC maintains that it correctly processed the claim for the scan.

Commissioner's Review

According to the certificate (p.3 of the schedule of benefits), there is a \$4,000.00 annual deductible for non-network services which must be met before UHC makes any payment. The certificate also says (p.11 of the schedule of benefits) that UHC pays 70% of the eligible amount for laboratory, x-ray, and major diagnostics (i.e., PET and CT scans) when received from a non-network provider.

From the documentation in the record, the Commissioner concludes and finds that UHC correctly followed these provisions when it processed the Petitioner's claims. It is undisputed that the scan was performed by a non-network provider. The Petitioner does not argue that he

did not have a \$4,000.00 deductible for non-network services, nor that the deductible had already been met, in whole or in part, at the time the scan was received. He also does not argue that UHC pays no more than 70% of eligible expenses for non-network services.

The Petitioner acknowledges he received services from a non-network provider. He is understandably upset because he incurred out-of-pocket expenses for services that might otherwise have been fully covered if they had been received from a network provider. He believes that his urologist should be responsible for the charges because the urologist's office staff scheduled the scan with a non-network provider. He also thinks that UHC should be required to treat the charge for the scan as a network service and accept Genesys' offer to settle the claim for a reduced amount.

The Commissioner is unable to grant the remedies the Petitioner seeks. Under the Patient's Right to Independent Review Act (PRIRA), the Commissioner is limited in this case to determining if UHC correctly applied the terms and conditions of the certificate. The Commissioner has no authority under PRIRA or the certificate to order the urologist to pay the charges for the scan or to require UHC to process the claim as a network service or negotiate a settlement of the claim.

The Commissioner finds UHC correctly processed Petitioner's claim according the terms of the certificate.

V. ORDER

The Commissioner upholds the final adverse determination of UHC dated November 8, 2010. UHC is not required to provide additional coverage for the Petitioner's PET/CT scan performed on September 16, 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 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

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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