

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

v

File No. 117694-001

Physicians Health Plan of Mid-Michigan HMO

Respondent

Issued and entered
this 23rd day of June 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On October 21, 2010 XXXXX, on behalf of her infant 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, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on October 28, 2010.

The Petitioner is a member of Physicians Health Plan of Mid-Michigan (PHP), a health maintenance organization. His benefits are defined in PHP's *Select Plus HMO* certificate of coverage. The Commissioner notified PHP of the external review and requested the information used in making its adverse determination. The information was received on October 26 and November 8, 2010.

The issue in this external review can be decided by an analysis of the *Select Plus HMO* certificate of coverage. 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

Petitioner is an infant who was prescribed a cranial molding helmet to correct a physical defect known as plagiocephaly. Cranial helmets are categorized by health care providers and insurers as durable medical equipment or "DME." The Petitioner's mother paid \$1,600.00 for

the cranial molding helmet and is now seeking reimbursement from PHP. PHP denied reimbursement ruling that the device is excluded from coverage.

The Petitioner appealed the denial through PHP's internal grievance process. PHP issued its final adverse determination dated October 14, 2010.

III. ISSUE

Is PHP correct in denying coverage for Petitioner's cranial molding helmet?

IV. ANALYSIS

Respondent's Argument

In its October 14, 2010 final adverse determination PHP wrote:

. . . The original decision to deny your request was upheld because cranial helmets are specifically excluded from coverage. This decision was based on the following section of your Certificate of Coverage. . . .

- Section 2: What's Not Covered – Exclusions, H. Medical Supplies and Appliances and Equipment, #4

PHP maintains that its denial was in compliance with the terms of Petitioner's certificate of coverage.

Petitioner's Argument

In her request for external review, Petitioner's mother wrote:

There are only four excluded DME items listed as excluded from my employer's health contract, one being the cranial helmet. . . . The cranial helmet item is excluded from **all** commercial PHP products under their certificate of coverage. Coverage for this item can not be purchased (by the employer) as a separate "rider" to the employer's policy. However, other excluded DME items can be covered by PHP through other mechanisms. For example, supplies are covered under another benefit section of most PHP policies and a separate rider can be purchased by an employer to cover shoes/orthotic shoes. **As a result, we contend this is a PHP decision to exclude cranial helmets from their DME coverage not an employer based decision.** PHP has decided to categorically exclude cranial helmets without considering the medical necessity of this item either on a 'macro' or 'micro' level. However, a verbal "off the record" conversation, PHP Medical Resource Management staff, has indicated to me the decision to exclude the helmet from all

policies stems from the idea that this item is used for cosmetic purposes.

Many major insurance carriers such as Aetna, BCBS, Cigna, and United Healthcare and government medical programs such as Medicaid have established criteria under which this treatment is covered. Helmet therapy is considered to be the *standard of care* for the diagnosis of plagiocephaly after 3 months of conservative treatment. This means it has become the accepted and recommended treatment by physicians and insurance carriers for this condition. **PHP has not indicated that cranial helmets are never of sufficient medical necessity to treat plagiocephaly just that they are excluded DME items.**

The AMA has determined conditions like plagiocephaly are reconstructive, not cosmetic and therefore should be treated. . . .

(Bold in original.)

In support of the request for a helmet, Dr. XXXXX, Petitioner's pediatrician, wrote in a letter dated August 13, 2010:

. . . I have been following [Petitioner] since his 2mo health maintenance physical when his head and neck showed flatness and torticollis. His physical/Osteopathic therapy has resulted in slow incremental improvement.

However, the head shape deteriorated quickly in the last 2 months. The cranial vault index was recently measured at 8.4. (The entire assessment by the orthotist is available upon request in case you require a different number) In my experience at this age for this extent of plagiocephaly a helmet will be required for an acceptable cosmetic result. For perspective, I manage all the plagiocephaly cases for our clinic for the past 5 years and the severity for [Petitioner] is in the upper 5 percent.

Commissioner's Review

Health maintenance organizations are required under the Michigan Insurance Code to provide coverage for basic health services when they are medically necessary. Basic health services are: physician services, ambulatory services, inpatient hospital services, emergency hospital care, outpatient mental health services, substance abuse treatment, laboratory and radiological services, home health care, and preventive health services. See section 3501(b) of the Insurance Code, MCL 500.3501(b).

Durable medical equipment such as the cranial helmet is not a basic health service. Consequently, HMOs may exclude coverage for such items. In this case, PHP has expressly excluded cranial helmets from coverage. Despite the fact that the cranial helmet may be medically necessary for the Petitioner, PHP may deny coverage for it.

V. ORDER

The Commissioner upholds PHP's adverse determination of October 14, 2010. PHP is not required to provide reimbursement for the Petitioner's cranial molding helmet.

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 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