

**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. 119105-001**

**American Community Mutual  
Insurance Company  
Respondent**

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**Issued and entered  
this 23<sup>rd</sup> day of June 2011  
by R. Kevin Clinton  
Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On January 18, 2011, XXXXX, authorized representative on behalf of the minor child XXXXX, 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 information and accepted the request on January 25, 2011. The Commissioner notified American Community Mutual Insurance Company (ACM) of the external review and requested the information it used in making its adverse determination. The Commissioner received ACM's response on January 27, 2011. (ACM did not submit any of its claims documents such as "explanation of benefit forms" for this review.)

This appeal can be decided by applying the terms of the contract defining the Petitioner's health care benefits. 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**

XXXXXX was born on May 11, 2010, at XXXXX Hospital in XXXXX, Michigan. The Petitioner's mother has health care coverage with ACM through her employer. The Petitioner's father has health care coverage with Blue Cross Blue Shield of Michigan. The Petitioners submitted claims for the hospital charges to BCBSM which paid \$1,479.68, leaving the Petitioners with a coinsurance obligation of \$988.45. Claims for this remaining obligation were submitted to ACM and ACM denied coverage. The denial was appealed through ACM's internal grievance process. ACM affirmed its denial of coverage and issued its final adverse determination dated January 10, 2011.

## **III. ISSUE**

Did ACM correctly deny claims submitted in relation to the birth of the Petitioner?

## **IV. ANALYSIS**

### Petitioner's Argument

In a letter dated December 17, 2010, Petitioner's mother states she had group coverage through ACM when she gave birth to Petitioner on May 11, 2010. She further states she and her newborn were released from the hospital with no complications. She was surprised when ACM failed to pay for Petitioner's care, indicating that he was not covered.

The Petitioner's mother points out that page 3.17 of the ACM certificate of coverage states that in-hospital care of a well, newborn child is a covered benefit. In addition, page 7.2 ("Addition of Dependents") provides that newborn children are automatically insured for 31 days after birth.

Petitioner's mother states that it was never her plan to add the son to her ACM plan. Rather, Petitioner was added to his father's health plan. The Petitioner's mother maintains that Petitioner was covered for 31 days under her ACM coverage even if he was never added to that policy. She states notice and premium payment are only required if coverage is extended beyond 31 days.

### Respondent's Argument

In its January 10, 2011, final adverse determination ACM explained its claims decision:

The submitted information was reviewed and it has been determined that coverage is not available for your newborn's inpatient charges. Your policy covers charges for in-hospital care of a well, newborn child. However, we are

unable to provide benefits because the newborn is not insured under your policy and notification of birth was not done in a timely manner.

Although it was not your intent to continue coverage beyond the 1<sup>st</sup> 31 days, the newborn notification by you was still required and had to be done within 31 days from the date of birth. Also, the additional premium required had to be paid during this time. We do not have any information that you notified us of the newborn during the 1<sup>st</sup> 31 days of birth. Therefore, since this requirement was not met, we are unable to add your newborn.

### Commissioner's Review

The ACM policy, page 7.2, states:

Newborn Children of an Insured Employee are automatically insured for 31 days after birth. To continue coverage for the newborn beyond that date, American must be given written notice of the birth and paid any required Premium within 45 days after the birth. If no additional Premium is required, written notice of the birth is still required.

ACM interpreted this language to mean that if it is not notified of the birth and if additional premium is not paid, the newborn has no coverage from the date of birth. This interpretation is not consistent with the actual policy provision which states that written notice is required to continue coverage "beyond the 31 days." No notice is required in order to receive coverage during the first 31 days of the newborn's life.

The Commissioner finds that ACM's denial of coverage for the maternity care provided in the first 31 days after Petitioner's birth is not consistent with the terms of the policy.

### **V. ORDER**

The Commissioner reverses ACM's adverse determination of January 10, 2010. ACM is required to provide, within 60 days of the date of this Order, coverage for the Petitioner's maternity care at XXXXX Hospital. ACM must provide proof of that coverage within seven days after coverage was provided.

To enforce this Order, the Petitioner must report any complaint regarding the implementation of this Order 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 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.

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R. Kevin Clinton  
Commissioner