

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

XXXXXX

Petitioner

v

File No. 118416-001

Blue Care Network of Michigan

Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On December 3, 2010, 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 Petitioner is a member of Blue Care Network of Michigan (BCN). Her health care benefits are defined in the *BCN 10* certificate of coverage. BCN was notified of the request for external review and, on December 8, 2010, furnished the information used in making its final adverse determination. On December 10, 2010, the Commissioner accepted the request for external review.

The issue in this external review can be decided by an analysis of the contract that defines the Petitioner's health care benefits. 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 has a medical condition known as "proliferative verrucous leukoplakia." This oral condition can transform into a malignant cancer. Treatment involves the removal of gum tissue which can cause bone loss. In the Petitioner's case, this treatment resulted in bone loss which subsequently required the extraction of several teeth. Her dentists recommended that the teeth be replaced with dental implants. BCN provided coverage for her medical treatment, including the removal of her teeth but denied coverage for the dental implants.

The Petitioner appealed the denial through BCN's internal grievance process and received BCN's final adverse determination dated November 23, 2010.

III. ISSUE

Did BCN properly deny the Petitioner coverage for dental implants?

IV. ANALYSIS

Petitioner's Argument

In her request for external review, Petitioner wrote:

In order to prevent cancer, the treatment thus far has been repeated and painful gum extractions wherever the leukoplakia appears. Over the past six months this has included gum extraction of the entire lingual and buccal sides of my lower mouth. Essentially all my gums have been extracted. I have had gums extracted from the same place several times. Gum tissue can grow back, and my gum regeneration has been around 50%. The area of my front lower teeth has been especially assaulted, and as a result of these several surgeries, my teeth became loose.

* * *

Dr. XXXXX and Dr. XXXXX both concurred that there was no hope for recovering the bone loss and recommended to me that I have four front teeth extracted.

* * *

A permanent fix would be dental implants. Because this is a medical condition I have petitioned my health insurance company, Blue Care Network, to pay for dental implants. They denied the initial request and two separate grievances claiming that this is a dental issue. Part of their denial says that only trauma to teeth warrants payment for dental implants. I claim that there has, in fact, been trauma to my teeth over a six month period due to several surgeries.

Dr. XXXXX, Petitioner's dentist, wrote the following in a July 20, 2010 letter:

[I]t is the firm opinion of both [Petitioner's] restorative dentist – Dr. XXXXX and myself that the mandibular incisors must be removed. The options for rehabilitation of this area after the fact would possibly have been a fixed partial denture, i.e. bridge, in a normal situation but due to the long length of span and the torque that would be placed on the already compromised adjacent remaining teeth that would serve as abutments or anchorage to the permanently cemented prosthesis, this is not practical. Also any recurrence of the entity beneath the bridge could be masked from early detection. Thoughts of a removable partial denture or flipper appliance would not suffice either, not only for the same reason

from an anchorage standpoint but this would also interfere with [Petitioner's] ability to effectively communicate with confidence to her students . . . not to mention the fact that contact of the acrylic or just irritation from the removable prosthesis itself could set-off another recurrence as well. Finally, that leaves the only viable option which would be dental implants, single individual units splinted only to themselves for added stability without any contact to the surface mucosa, thereby eliminating any possible reaction setting-off another recurrence or masking of one as well.

Petitioner contends dental implants and related services are a medical recourse for the treatment of her condition. Therefore, she is requesting BCN to provide coverage.

Respondent's Argument

In its November 23, 2010, final adverse determination, BCN denied coverage for implants stating:

The Panel . . . reviewed the medical documentation you provided in your grievance submission, the proposed treatment plans from your oral surgeon, Dr. XXXXX, your dentist, Dr. XXXXX, our medical policies, your BCN 10 certificate of coverage, as well as took into consideration your input and x-ray photo copies offered at the Panel meeting. Based on this information, the Panel has partially approved your request. The Panel has approved payment for the tooth extractions but have maintained the denial for the dental implants and the restorative services (ie: crowns or bridges) as they are a benefit exclusion of your certificate of coverage. Please reference Part 2: EXCLUSIONS AND LIMITATIONS page 16, section 2.01 titled *Unauthorized and Out of Network Services* as well as page 19, section 2.14 titled *Dental Services* located in the enclosed BCN 10 . . . certificate of coverage.

BCN argues that its decision to deny coverage for implants and restorative services was appropriate under the terms of the certificate.

Commissioner's Review

BCN, in its final adverse determination, referred to the following provisions in Petitioner's certificate of coverage:

2.01 Unauthorized and Out-of-Plan Services

Except for emergency care as specified in Section 1.05 of this booklet, health, medical and hospital services listed in this Certificate are covered **only** if they are:

- provided by a BCN-affiliated provider and
- preauthorized by BCN.

Any other services will not be paid for by BCN either to the provider or to the member.

2.14 Dental Services

We do not cover dental services, dental prostheses, replacement of teeth, X-rays, anesthesia for dental procedures or oral surgery except as specifically stated in Section 1.19.

The Petitioner seeks coverage for dental implants. Implants are a form of dental prosthesis and involve the replacement of teeth. Both dental prostheses and replacement of teeth are explicitly excluded from coverage under section 2.14 of the certificate of coverage.

The Commissioner notes that the Petitioner believes coverage should be provided because she endured extensive trauma during her oral surgical procedures. While this may be true, the only allowance in the certificate for coverage as it relates to trauma is limited to oral surgery performed within 72 hours of injury:

1.19 Oral Surgery

Oral surgery and X-rays are covered only when BCN authorized them for:

* * *

- Oral surgery and dental services necessary for immediate repair of trauma to the jaw, natural teeth, cheeks, lips, tongue, roof and floor of the mouth.

* * *

NOTE: "Immediate" means treatment within 72 hours of the injury.

The Commissioner finds that BCN's denial of implants is consistent with the terms of the certificate of coverage.

V. ORDER

The Commissioner upholds BCN's November 23, 2010, final adverse determination. BCN is not required to provide coverage for dental implants and restorative procedures.

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