

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. 118914-001

Aetna Life Insurance Company

Respondent

Issued and entered
this 25th day of July 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On January 6, 2011, XXXXX, authorized representative of her husband 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 information and accepted the request on January 13, 2011.

The issue here 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

Petitioner is covered under a fully insured group policy, Aetna's *MI Open Choice PPO 7-07*.

Petitioner has a history of chronic back pain. He was diagnosed in 2009 with multiple myeloma. He has been treated with surgery and chemotherapy. He has continued to experience intractable back pain. He slept on a hospital bed with a special mattress, however his back pain continued. His physician wrote a prescription for a special bed which Petitioner purchased on August 25, 2009. The bed is a "Sleep Number Bed" manufactured by the Select Comfort

Corporation. The cost of the bed was \$1,993.01, according to the explanation of benefits form submitted with this appeal.

Petitioner requested Aetna pay for the bed as an item of durable medical equipment (DME). Aetna denied the request, ruling that the bed is not a covered DME product under the Petitioner's policy. Petitioner appealed the denial of coverage through Aetna's internal grievance process. Aetna affirmed its original determination and issued a final adverse determination on November 10, 2010.

III. ISSUE

Did Aetna properly deny Petitioner's request for coverage for a special bed?

IV. ANALYSIS

Respondent's Argument

In its November 10, 2010, final adverse determination, Aetna wrote:

[W]e are upholding the previous decision to deny coverage for the Sleep Number Bed obtained on August 25, 2009 at Select Comfort.

* * *

[P]age 3 of [Aetna clinical policy bulletin] #0543, clearly states the following: "The following are examples of brands of lounge beds that do not fall within the definition of durable medical equipment.

- Adjust-A-Sleep Adjustable Bed
- Craftmatic Adjustable Bed
- Electropedic Adjustable Bed
- Simmons Beautyrest Adjustable."

Additionally, the Committee must adhere to the terms of the contract and the contract states that durable medical equipment must be made for and used in the treatment of a disease or injury. Since the Sleep Number Bed is not made for the treatment of a disease or injury and is similar to the CPB #0543's list of lounge beds that do not fall within the definition of durable medical equipment, your request for coverage for the Sleep Number Bed obtained on August 25, 2009, at Select comfort has been denied.

Petitioner's Argument

Petitioner's wife states that after Petitioner's second hospital stay he was provided with a "bariatric bed" which was longer and wider and more suited to his needs. She later contacted Aetna regarding their desire to have the Sleep Number Bed covered and was referred to Aetna's

clinical policy bulletin #0543, “Hospital Beds and Accessories.” Upon reading this bulletin, she felt that Petitioner met the criteria for needing a hospital bed and that the Sleep Number Bed did not fall within the bulletin’s definition of an ordinary (non-hospital) bed and should therefore be covered. She argues that the Sleep Number Bed is not a lounge bed, because the sleeping surface is adjustable and has adjustable positions. She states the sole reason for the purchase of the bed was to aid in the treatment of her husband’s condition.

Commissioner’s Review

The Petitioner’s policy provides coverage for “durable medical and surgical equipment” which is defined on page 18 of the certificate of coverage as equipment that is:

- Made to withstand prolonged use.
- Made for and mainly used in the treatment of a disease or injury.
- Suited for use in the home.
- Not normally of use to persons who do not have a disease or injury.
- Not for use in altering air quality or temperature.
- Not for exercise.

Aetna also has a “Clinical Policy Bulletin” which addresses coverage for hospital beds and accessories. On page 3, the Bulletin addresses beds which are not covered:

Ordinary beds do not meet Aetna’s definition of covered durable medical equipment, in that ordinary beds are not primarily medical in nature, are not primarily used in the treatment of disease or injury, and are normally of use in the absence of illness or injury. Please check benefit plan descriptions. An ordinary bed is one that is typically sold as furniture. It consists of a frame, box spring, and mattress. It is a fixed height, and has not head or leg elevation adjustments. An ordinary bed will accommodate most transfers to a chair, wheelchair, or standing position. If needed, it can almost always be adapted to accommodate these transfers. The need for a particular bed height would rarely by itself justify the need for a hospital bed.

Aetna does not cover power or manual lounge beds because they are a comfort or convenience item. Note: In addition, power or manual lounge beds do not meet Aetna’s definition of covered durable medical equipment, in that they are not primarily medical in nature, are not primarily used in the treatment of disease or injury, and are normally of use in the absence of illness or injury. . . . These beds, like other ordinary beds, are typically sold as furniture. The following are examples of brands of lounge beds that do not fall within the definition of durable medical equipment:

- Adjust-A-Sleep Adjustable Bed
- Craftmatic Adjustable Bed
- Electropedic Adjustable Bed
- Simmons Beautyrest Adjustable Bed.

The Commissioner notes that the Sleep Number Bed can be used by individuals who do not have disease or injury. It is sold to the general public at commercial outlets in shopping malls. The bed is not “made for and mainly used in the treatment of a disease or injury” and for that reason does not meet the definition of DME in the policy. The bed is comparable to the examples of lounge beds that are listed in the clinical policy bulletin.

Therefore, the Commissioner finds that Aetna’s denial of coverage for the Sleep Number Bed was consistent with the terms of the policy.

V. ORDER

The Commissioner upholds Aetna’s November 10, 2010, final adverse determination. Aetna is not required to provide coverage for Petitioner’s Sleep Number Bed.

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