

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. 119518-001

v

Priority Health  
Respondent

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Issued and entered  
this 12<sup>th</sup> day of August 2011  
by R. Kevin Clinton  
Commissioner

**ORDER**

**I. BACKGROUND**

On February 10, 2011, XXXXX (Petitioner) filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

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**

The Petitioner is a member of Priority Health, a health maintenance organization. His health care benefits are defined in Priority Health's certificate of coverage and the "HealthbyChoiceIncentives" rider.

**HealthbyChoiceIncentives** is a wellness program that offers two levels of benefits, "choice" and "standard." Members who meet certain requirements qualify for the choice level which saves them money through lower copayments and deductibles.

The Petitioner enrolled with Priority Health on July 1, 2010, and he and his wife were placed in the choice benefit level. The requirements to remain at the choice level are explained in the rider:

Services you receive during the first 90 days of Coverage under **HealthbyChoiceIncentives** are automatically Covered according to the *choice* benefits level.

To retain Coverage under the *choice* benefits level, you must meet the requirements described below during the first 90 days of your initial Coverage period. If you have a Covered spouse, your spouse must also meet these requirements during the first 90 days of your initial Coverage period:

1. Complete the online HealthQuotient™ available at *priorityhealth.com*; and
2. Have your Primary Care Provider (PCP) or other Participating Physician complete and submit your **HealthbyChoiceIncentives** qualification form.

If you do not meet the criteria for the health indicators described on the qualification form, you must undergo appropriate screening tests and agree to follow your PCP's or other Participating Physician's treatment and monitoring plan.

If you and your spouse do not meet these requirements within the first 90 days of your initial coverage period, subsequent services that you or your enrolled family Members receive will be Covered under the *standard* benefits level.

To remain at the choice level, the Petitioner had to complete the plan requirements by September 29, 2010. Priority Health terminated the Petitioner's enrollment in the choice plan on September 30, 2010, because Priority Health had not received the HealthQuotient™ documentation from Petitioner.

The Petitioner appealed the termination through Priority Health's internal grievance process and received a final adverse determination dated January 20, 2011.

### III. ISSUE

Did Priority Health properly terminate the Petitioner's enrollment in the choice plan under the terms of the rider?

### IV. ANALYSIS

#### Petitioner's Argument

The Petitioner states he and his wife completed the physical exams in time, but did not complete the online HealthQuotient™ by the September 29, 2010, deadline. The Petitioner

believes Priority Health shares some of the blame for his failure to meet the requirements to keep the choice benefits level of coverage. In his request for review, Petitioner wrote:

My wife and I completed the physical exams with our primary care physicians but were unaware of an online survey. . . . We did NOT receive the letters and therefore had our coverage downgraded. . . . I have contacted my Priority Health account representative without explanation of failure of reminder to fill out the online survey. To this day, we still don't have instructions on how to fill it out. . . .

My wife and I are left with several thousand dollars in medical bills for our infant daughter's surgery and infant son's emergency room visit as a result of this failure in communication. We request the opportunity to acquire the choice benefit coverage that we pay the premium for by filling out the survey, in addition to retroactive coverage to the beginning of our enrollment.

#### Respondent's Argument

In its January 20, 2011, final adverse determination, Priority Health wrote:

[Petitioners] did not complete the online HealthQuotient as required to allow continued coverage under the HealthbyChoiceIncentives Choice Benefits level.

Priority Health sent reminder letters to [Petitioners] dated July 6 and August 16, 2010, outlining the requirements to continue under the Choice Benefits level.

Records reviewed do not evidence [Petitioners] completed an online HealthQuotient by September 29, 2010.

Priority Health maintains its decision to place the Petitioners in the standard benefits level of coverage was in compliance with the terms of the rider.

#### Commissioner's Review

Under MCL 500.3426, health maintenance organizations are permitted to offer wellness programs that provide for reduced copayments, coinsurance, or deductibles if certain conditions are met. The Priority Health version of such a program requires members to meet several requirements for participation. These requirements are stated in the Petitioner's certificate of coverage, along with instructions for completing and submitting the necessary documentation. One of those requirements is to complete an online questionnaire. The Petitioner was required to have the online form completed by September 29, 2010. There is no dispute that the form was not submitted by that date. The Petitioner states he did not receive the reminder letters and did not understand the requirements of the program.

The Commissioner, while sympathetic, is unable to order the remedy sought by the Petitioner. Under the Patient's Right to Independent Review Act, the Commissioner's role is limited to determining whether Priority Health properly administered the terms and conditions of the Petitioner's coverage and state law. Nothing in the certificate, the HealthbyChoiceIncentives rider, or state law requires Priority Health to waive the participation conditions of the wellness program.

The Commissioner finds that the Petitioner did not complete the requirements of the HealthbyChoiceIncentives rider. Priority Health's decision to place him in the standard level was consistent with the terms of the rider.

#### **V. ORDER**

The Commissioner upholds Priority Health's January 20, 2011, final adverse determination. Priority Health is not required to return the Petitioner and his family to the choice benefits level of coverage effective September 29, 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 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