

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. 119747-001-SF

Magellan Behavioral of Michigan, Inc.

Respondent

Issued and entered
this 22nd day of August 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On February 25, 2011, XXXXX and XXXXX, authorized representatives of their daughter XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006, MCL 550.1951 *et seq.* The Commissioner reviewed the material submitted and accepted the request on March 4, 2011.

Under Section 2(2) of Act 495, MCL 550.1952(2), the Commissioner conducts this external review as though the Petitioner was a covered person under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.*

The medical issue in this case was assigned to an independent medical review organization which provided its analysis and recommendation on March 18, 2011.

II. FACTUAL BACKGROUND

The Petitioner receives health care benefits under a self-funded benefit plan for employees of the XXXXX. Magellan Behavioral of Michigan, Inc., administers the mental health and substance abuse portions of the XXXXX health plan. The terms of the Petitioner's coverage are contained in the XXXXX *Member Handbook*.

Petitioner had a serious eating disorder which was first diagnosed in 2006 and treated on an outpatient basis. In 2007 she experienced a rapid weight loss and other symptoms. Her

physician recommended immediate hospitalization. She was treated at XXXXX in XXXXX, XXXXX, a facility that specializes in the treatment of eating disorders, on the following dates:

September 12 to November 11, 2007	Inpatient treatment
December 5, 2007 to January 19, 2008	Inpatient treatment
January 19, 2008 to March 5, 2008	XXXXX Life program
March 6, 2008 to March 14, 2008	Independent living program

Magellan denied authorization for Petitioner to be treated at XXXXX. Petitioner and her parents appealed the denial through Magellan's internal grievance system. A managerial level conference was conducted, and Magellan issued a final adverse determination dated January 19, 2010, specifically regarding the inpatient admission from September 12 to November 11, 2007. The Petitioner requested an external review of this final adverse determination and the Commissioner issued an order (File No. 110807, August 4, 2010) requiring coverage for the Petitioner's care at XXXXX from September 12 to November 11, 2007. Magellan complied with this Order.

Since the January 19, 2010, final adverse determination did not address with the December 5, 2007 to January 19, 2008, inpatient treatment this care was not part of the Commissioner's August 2010 Order. The Petitioner requested an internal appeal concerning the second admission at XXXXX and Magellan conducted a managerial level conference. Magellan issued a final adverse determination dated January 11, 2011, denying the December 5, 2007 to January 19, 2008, inpatient treatment.

III. ISSUE

Did Magellan properly deny coverage for the Petitioner's inpatient care at XXXXX from December 5, 2007 to January 19, 2008?

IV. ANALYSIS

After the Petitioner was discharged from her initial stay, her condition rapidly deteriorated. At the insistence of her treatment team in Michigan, she was readmitted to XXXXX on December 5, 2007, and was treated there until January 19, 2008. Coverage for this care was also denied by Magellan. The Petitioner argues that this care was medically necessary and should be a covered benefit under her certificate.

In its January 11, 2011, final adverse determination, Magellan stated that Petitioner did not meet the health plan's criteria for inpatient admissions:

- While Petitioner did have a diagnosis of anorexia nervosa, she did not have a body weight less than 75% of ideal body weight nor were there present any of the physiologic instability parameters identified in the criterion

- The severity of the Petitioner's illness had not progressed to a level that required twenty-four hour psychiatric or other nursing intervention to immediately interrupt her food restriction or purging to avoid imminent serious medical or psychological harm
- There is nothing in the records suggesting the Petitioner needed supervision that could only be given at the inpatient level of care
- There was no evidence that the Petitioner's behavior had not, or could not, respond to an adequate therapeutic trial of treatment in a less intensive setting such as partial hospitalization, nor was there clinical evidence that Petitioner was not likely to benefit or be safely treated in a less intensive setting

The question of the medical necessity of Petitioner's inpatient care at XXXXX from December 5, 2007 to January 19, 2008, was presented to an independent review organization (IRO) for analysis as required by Section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a physician in active practice, board certified in psychiatry, and familiar with the treatment of individuals with the Petitioner's condition. The reviewer's report included the following analysis:

[T]he member had the onset of her eating disorder at age 14, which was restrictive in nature and progressed to bingeing and purging by the age of 19. . . . [T]he member has a history of excessive exercise and abuse of diet pills, as well as self injurious behavior. . . . [T]he member was admitted for inpatient treatment from 9/12/07 to 11/11/07 with an admission weight of 103.6 pounds and a discharge weight of 114.2 pounds. . . . [T]he clinical notes and discharge summary from this admission reported that the member was resistant to care, stated the intention not to follow the meal plan recommendations, had a minimal commitment to recovery and was mildly improved at discharge. . . . [T]he member was discharged to home on 11/11/07 and experienced a 10 pound decrease in her weight in 3 weeks. . . . [F]rom 11/11/07 to 12/5/07, the member was reported as attending 2 therapy sessions per week, but not following up with other providers. . . . [T]he member was admitted for inpatient treatment a second time from 12/5/07 to 1/19/08.

[T]he records from 11/11/07 to 12/05/07 indicate that the member failed to engage in treatment recommendations during that period. . . . [T]he member's weight of 104 pounds on admission was not less than 75% of her ideal weight of 122 pounds. . . . [W]hile a repeat admission would assist in restoring the member's weight, it was not reasonably expected to improve her outcome and prognosis. . . . [T]he information submitted for review does not demonstrate that the member had significant cardiac or renal impairments at the time of her 12/5/07 readmission. . . . [T]he member's vital signs did not show evidence of dysregulation. . . . [T]he member's medical condition did not require 24 hour

nursing care. . . . [T]he member was not at risk for imminent serious complications due to acute depression or suicidality if not treated at an inpatient level of care. . . . [T]he discharge assessment from the 12/5/07 to 1/19/08 admission documented that the member had minimal commitment to recovery, a guarded prognosis and a mildly improved overall condition. . . . [T]he member could have been treated at a lower level of care during the period at issue in this appeal.

[I]t was not medically necessary for the member to have been treated at an inpatient level of care from 12/5/07 to 1/19/08.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16) (b). The IRO reviewer's analysis is based on expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in the present case.

Therefore, the Commissioner accepts the IRO reviewer's conclusion and finds that it was not medically necessary for the Petitioner to have been treated at an inpatient level of care from December 5, 2007 to January 19, 2008.

V. ORDER

The January 11, 2011, final adverse determination is upheld. Magellan is not required to approve coverage for the Petitioner's inpatient care at XXXXX from December 5, 2007 to January 19, 2008.

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 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, P. O. Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner