

**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**

**File No. 119931-001**

**v**

**Blue Care Network of Michigan**  
**Respondent**

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**Issued and entered**  
**this 22<sup>nd</sup> day of August 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On March 8, 2011, 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.* On March 15, 2011, after a preliminary review of the material submitted, the Commissioner accepted the request for external review.

The Petitioner is a member of BCN. Her health care benefits are defined in the *BCN 5* certificate of coverage (the certificate). 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**

Following years of discomfort, Petitioner underwent reduction mammoplasty surgery to reduce the size of her breasts. She was referred by her primary care physician to Dr. XXXXX, M.D., who performed the surgery at XXXXX Hospital on July 29, 2010. BCN provided coverage applying a 50% copayment.

Petitioner appealed the application of the copayment through BCN's internal grievance process. BCN affirmed its original decision in a final determination dated February 24, 2011.

### III. ISSUE

Did BCN properly apply a copayment for Petitioner's reduction mammoplasty surgery under the terms of the certificate?

### IV. ANALYSIS

In her request for review, Petitioner explained why she believes there should not be a copayment:

The surgery I had done was a breast reduction mammoplasty due to I had lower back pain, neck pain, bra strap that would leave indentations in my shoulders, I would get migraines, I was a size 44 DDD. . . . I was under the understanding that I had no [copayment] due to it was a medically necessary surgery. [I]n the BCN 5 General Provisions and Your Benefits book it states on page 11 under 1.18 Reconstructive Surgery that I [had] coverage with no [copayment] . . .

In its February 24, 2011, final determination, BCN wrote:

Upon review of your benefits, [the appeal panel] verified, per your enclosed BCN 5 Certificate, pages 11-12, section 1.18a, Reconstruction Surgery, Reduction Mammoplasty that there is a 50% member copayment for all fees associated with covered facility, professional and all related services. You are responsible for the applicable copays for the services you received. Therefore, your request for the copayment to be waived is denied.

BCN maintains that its benefits determination is in compliance with the provisions in the certificate and therefore its denial was appropriate.

The certificate provides coverage for reduction mammoplasty when the surgery is medically necessary. Section 1.18(a) of the certificate states in pertinent part:

**Reduction Mammoplasty (Breast Reduction Surgery)**

Surgery for Reduction mammoplasty (breast reduction) is covered for females when it is medically necessary and preauthorized by BCN.

\* \* \*

**Copayment:** 50% of all fees associated with covered facility, professional and all related services.

Petitioner's surgery was medically necessary and preauthorized by BCN. However, the certificate specifically requires a 50% copayment for the type of surgery Petitioner received. BCN provided coverage for the surgery to the extent allowed under the provisions of Petitioner's certificate.

The Commissioner finds that BCN's application of the copayment for the reduction mammoplasty was consistent with the provisions of the certificate of coverage.

**V. ORDER**

The Commissioner upholds BCN's February 24, 2011, final adverse determination. BCN is not required to waive the copayment for Petitioner's mammoplasty and related services.

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