

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. 120026-001

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 23rd day of August 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On March 11, 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 (PRIRA), MCL 550.1901 *et seq.* The case was accepted for review on March 18, 2011.

The issue in this external review can be decided by a contractual analysis. The contract here is the BCBSM *Master Medical Supplemental Benefits Certificate Catastrophic Coverage Plan Option 1* (the certificate). 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

On October 1, 2010, the Petitioner had surgery on his right shoulder. After surgery his doctor ordered a Continuous Passive Motion (CPM) device for his use during his recovery. From October 1 through October 22, 2011, he utilized the CPM. BCBSM provided coverage under the certificate's durable medical equipment (DME) provision, applying a copayment of \$238.48.

The Petitioner appealed BCBSM's application of the copayment through its internal grievance process. On February 22, 2011, BCBSM held a managerial-level conference and on issued a final adverse determination affirming its claim decision on February 28, 2011.

III. ISSUE

Did BCBSM correctly apply a copayment for Petitioner's continuous passive motion device?

IV. ANALYSIS

Petitioner's Argument

The Petitioner does not believe a copayment should apply for his claim because the device was part of his surgery. He argues that since the surgery and therapy after the surgery did not include a copayment, this device should also not have a copayment as this device should be included as part of his surgery benefit.

The Petitioner believes that BCBSM is required to pay an additional \$238.48 toward the cost of the device.

BCBSM's Argument

The Petitioner states that he believes that the DME device should be included as part of his surgery benefit. However, the surgery benefit includes only payment for the physician's surgical fee, the medical care provided by the surgeon before and after surgery while the patient is in the hospital, and visits to the attending physician for the usual care before and after surgery. It does not include coverage for DME devices for use in the home.

BCBSM maintains that the application of the \$238.48 copayment for the Petitioner's DME claim is in accordance with the provisions of the certificate.

Commissioner's Review

The CPM device the Petitioner used is classified as durable medical equipment which is defined in BCBSM certificate as "equipment which can withstand repeated use and which is used for a medical purpose by a patient who is ill or injured." Such a device is covered for the Petitioner under the certificate which requires a 20% copayment for DME.

Because the CPM device meets the definition of durable medical equipment and because DME is not one of the services listed in the certificate as a surgical benefit, the device should be processed under the DME provision of the certificate. The Commissioner finds that BCBSM

application of a 20% copayment to the Petitioner's claim for use of the CPM device is consistent with the language in the certificate.

V. ORDER

BCBSM's final adverse determination of February 28, 2010, is upheld. BCBSM is not required to pay an additional amount for the Petitioner's CPM device for October 1 through October 22, 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.

R. Kevin Clinton
Commissioner