

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. 120122-001

Priority Health

Respondent

Issued and entered
this 31st day of August 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On March 18, 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.*

The Commissioner notified Priority Health of the request for external review and requested the information used in making its final adverse determination. The Commissioner received Priority Health's response on March 21, 2011. On March 25, 2011, after a preliminary review of the material submitted, the Commissioner accepted the request for external review. On April 4, 2011, Priority Health provided additional information.

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 the Priority Health certificate of coverage (the certificate). Priority Health's *Preventive Health Care Guidelines* also apply.

On November 29, 2010 and January 31, 2011, Petitioner received human papillomavirus (HPV) vaccinations. He was 20 years old at the time. Priority Health denied coverage based on its preventive guideline that HPV vaccinations are not covered for men. The Petitioner appealed the denial asking for coverage for the two vaccinations that were provided and for any additional vaccinations required in the series. The cost of the vaccinations was \$160.

Priority Health maintained its denial. Petitioner appealed the denial through Priority Health's internal grievance process. Priority Health maintained its denial and issued a final adverse determination dated March 4, 2011.

III. ISSUE

Did Priority Health properly deny coverage for HPV vaccinations under the terms of the certificate?

IV. ANALYSIS

Petitioner's Argument

The Petitioner wants Priority Health to provide coverage for his vaccinations as preventive care because they help prevent cancer in males and he has a high risk of cancer in his family.

Respondent's Argument

Priority Health wrote the following in its March 4, 2011, final adverse determination:

The HPV Vaccine is a covered benefit for females only in accordance with the Priority Health Care Guidelines which are based on Federal Guidelines for Preventive Health Coverage.

The Priority Health *Preventive Health Care Guidelines* describe the coverage for immunization vaccines for adults in a table on page 9:

Immunizations	
* * *	
Human papillomavirus	Three dose series at age 19 to 26 years on a zero, two and six-month schedule for females. Minimum spacing: four weeks between #1 and #2; 12 weeks between #2 and #3; must be 24 weeks between doses #1 and #3

The federal guidelines established by the Center for Disease Control recommend the HPV vaccine for girls and women age 11 through 26 years (may only be indicated for adults based on medical and other indications).

Commissioner's Review

Priority Health's certificate and Preventive Health Care Guidelines only provides coverage for the HPV vaccine for females. The certificate provides:

Section 6. Covered And Non-Covered Services

* * *

A. Professional Services

1. Primary Care, Including Health Maintenance And Preventive Health Care Services

* * *

- (c) Pediatric and adult immunizations for infectious diseases identified as a routine vaccine for the general public, as recommended by our Preventive Health Committee. . . .

The coverage available for the HPV vaccination is detailed in the *Preventive Health Care Guidelines* quoted above. These guidelines are based on federal recommendations. The federal guidelines do not state that the HPV vaccine is recommended for men, rather it may be provided to reduce the likelihood of genital warts. Under both guidelines, the HPV vaccine is not recommended for males as a cancer preventative, which is the purpose for which Petitioner requested the HPV vaccinations. The Commissioner finds that Priority Health's denial is consistent with its preventive health guidelines and the certificate.

V. ORDER

The Commissioner upholds Priority Health's March 4, 2011, final adverse determination. Priority Health is not required to provide Petitioner with coverage for HPV vaccinations.

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