

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

██████████

Petitioner

v

████████████████████, Plan Sponsor

and

Blue Cross Blue Shield of Michigan, Plan Administrator
Respondents

File No. 218284-001-SF

Issued and entered
this 31st day of August 2023
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 9, 2023, ██████████ (Petitioner) filed with the Director of the Department of Insurance and Financial Services a request for an external review. The request for review concerns denial of coverage for surgery. The Director accepted the request for review on August 16, 2023.

The appeal was filed under Public Act No. 495 of 2006, MCL 550.1951 *et seq.* Section 2 of Act 495, MCL 550.1952, requires the Director to provide external reviews to individuals covered by a self-funded health plan that is established or maintained by a state or local unit of government as though that person were a covered person under the Patient's Right to Independent Review Act (PRIRA). The Petitioner's health benefit plan is such a governmental self-funded plan. The plan is sponsored by ██████████. Blue Cross Blue Shield of Michigan is the plan administrator. The benefits are described in *Community Blue Group Benefits Certificate ASC* (the *Certificate*). The Director notified BCBSM of the appeal and asked it to provide the information used to process the Petitioner's claim. BCBSM responded on August 15, 2023.

The issue in this external review can be decided through a contractual analysis. The Director reviews contractual issues pursuant to MCL 550.1911(8). This matter does not involve medical issues requiring analysis by an independent review organization.

II. FACTUAL BACKGROUND

On February 14, 2023, the Petitioner had sinus augmentation with bone graft surgery in preparation

for placement of a dental implant to replace tooth #14 and to close an oral antral communication. Petitioner's dental carrier paid for all other expenses related to the surgery but denied coverage for sinus augmentation and bone graft. BCBSM denied coverage for the sinus augmentation and bone graft on the basis that dental treatments are not a medical benefit under the Petitioner's benefit plan.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated July 7, 2023, affirming its coverage denial. The Petitioner now seeks the Director's review of that determination.

III. ANALYSIS

Petitioner's Argument

In the request for review, the Petitioner wrote:

I had a tooth pulled in 11/2022 and had an oroantral communication (OAC). Multiple attempts were made to close this opening including collagen plugs and a palate flap. This area was closed but significant amounts of bone graft were lost, and a sinus lift was recommended by my PCP and primary dentist as my bone structure was thin in that area. In February of 2023 the oral surgeon did a sinus lift, bone graft and dental implant. My dental insurance covered the bone graft and implant but denied the sinus lift, CPT code 21210 as medical. I contact my medical provider (as did the oral surgeon's office) preservice and was told that CPT code 21210 was a covered procedure and that it was payable at 100% of allowable for an in-network provider and 50% of the allowable for an out-of-network provider and was give coverage amounts. I gave the surgeon's NPI and was told he was out of network. I had the procedure done and when I submitted the receipt it was denied. They initially told me it was denied because it was done by an oral surgeon and not a plastic surgeon and would need preapproval. Then they told me it was not a covered procedure. I appealed and was told it was denied as a dental procedure. So, I went back to Delta dental who told me that CPT code 21210 is medical and not dental. I did a secondary appeal with BCBS and was told it was denied because it was done with a tooth extraction or as a result of a tooth extraction, but the tooth was extracted months earlier in 11/2022 and the initial bone grafting and intervention failed. I feel very much like BCBS has given me the run around and has looked for any possible excuse to not pay for my procedure. I believe they should stand behind their confirmation that CPT code 21210 is a covered benefit.

Respondent's Argument

In its final adverse determination, BCBSM wrote:

A Blue Cross Medical Consultant, a board-certified DDS in Oral and Maxillofacial Surgery, reviewed your appeal, the information your doctor submitted, your medical benefits, and the Blue Cross "Dental Medical - Surgical Treatment" criteria for the reported service. The Medical Consultant determined the following:

All documentation was reviewed, and it indicates that you were put asleep and had tooth #14 (*upper left molar*) removed. At that same appointment, your dentist defined an oral antral communication (*a hole into the sinus cavity*). He addressed that opening by elevating the sinus floor, protecting it, and placing a bone graft (*bone from a bottle*) to close the opening and preserve the site for a future dental implant. According to Blue Cross medical-surgical policy, Dental Medical-Surgical Treatment removal of a tooth is dental treatment, and repair of the sinus floor opening created/defined at the time of removal of the tooth, is also [sic] dental treatment and considered inclusive to the extraction care. As such, dental treatments are not covered by the medical-surgical benefit under the criteria provided. Moreover, the Policy specifically indicates that bone grafts to aid the healing of an extraction site and/or in association with preparation for placement, support, or repair of dental implants is not a benefit. As noted in the prior review, your dentist also submitted charges requesting payment for the placement of a dental implant. The documentation does not support that a dental implant was placed. The medical policy indicates that dental implants are a dental treatment for the replacement of a missing tooth and are not covered under the medical-surgical benefit. Therefore, coverage for all the procedures is denied.

You are covered under the *Community Blue Group Benefits Certificate ASC*. As indicated on page 133 of the *Certificate*, we do not pay for dental treatment, including extraction of teeth, unless otherwise noted. As stated in our Medical Consultant's decision, the *sinus lift (procedure 21210)* is part of your dental treatment. Therefore, it is not covered under your plan, and you remain liable for the noncovered charges.

Director's Review

The *Community Blue Group Benefits ASC Certificate* (pages 42-43) states in pertinent part:

We do not pay for:

- Routine dental services

- Dental implants and related services, including repair and maintenance of implants and surrounding tissue.

In addition, BCBSM's "Dental-Medical Surgical Treatment" policy notes that there is no coverage for dental implants and related services, including:

- Hard and soft tissue preparation procedures: (including but not limited to):
 - repair and maintenance of implants and surrounding tissue
 - extraction site "socket" preservation
 - bone reconstruction/replacement grafting to the dental alveolus for future implant placement
 - sinus floor augmentation or sinus lift surgery

- soft tissue grafts
- guided tissue regeneration procedures
- associated include material supplies: (including but not limited to)
 - allograft materials
 - procedures for harvesting of any autograft.
 - bone regenerative materials (e.g., Emdogain, Infuse, GEM-21)
 - blood collection procedures for generation of grafting augmentation and support (e.g., a-PRF and i-PRF, PRP)
 - membranes and materials to support the grafting (resorbable collagen based, non-resorbable synthetic, Titanium mesh and custom generated Titanium frames.

Based on the language of the certificate and related medical policy, BCBSM excludes coverage for “dental implants and related services, including repair and maintenance of implants and surrounding tissue.” Therefore, the Petitioner’s sinus floor augmentation and bone grafting are not covered by BCBSM.

The Director finds that BCBSM’s denial of coverage is consistent with the terms of the Certificate.

IV. ORDER

The Director upholds BCBSM’s July 7, 2023, final adverse determination.

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 Michigan 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 Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director

For the Director:



Recoverable Signature

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford