

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

File No. 229161-001

Health Alliance Plan of Michigan
Respondent

Issued and entered
this 23rd day of October 2024
by Jeffrey Hayden
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On September 24, 2024, ██████████ (Petitioner), filed with the Director of the Department of Insurance and Financial Services a request for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The request for review concerns the denial of coverage for a prescription drug.

The Petitioner receives health care benefits through Health Alliance Plan of Michigan (HAP) a health maintenance organization. The benefits are described in HAP's *Health Maintenance Organization (HMO) Group Subscriber Contract* (the contract). The Director notified HAP of the external review request and asked for the information used to make its final adverse determination. HAP responded on September 25, 2024. The Director accepted the request for external review on October 1, 2024.

The Director assigned an independent review organization to analyze the medical issues in this appeal. The review organization submitted its report to the Director on October 15, 2024.

II. FACTUAL BACKGROUND

The Petitioner takes Metformin and pioglitazone to control their A1c and blood glucose levels. The Petitioner's physician recommended the addition of Ozempic in conjunction with Metformin and asked HAP to authorize coverage. HAP denied the request on the basis that its criteria were not met.

The Petitioner appealed HAP's decision through its internal grievance process. At the conclusion of

that process, HAP issued a final adverse determination dated September 20, 2024, affirming its coverage denial. The Petitioner now seeks the Director's review of that determination.

III. ANALYSIS

Respondent's Argument

In its final adverse determination, HAP wrote:

Ozempic is a medication used to help control blood sugars in Type II Diabetes.

For management of high blood sugars (related to Type II diabetes), HAP's Criteria for Use of Ozempic requires the following:

(1) Pharmacy claims must show you are actively taking metformin (at appropriate doses), and despite consistent use of metformin, blood sugars remain uncontrolled.

Your blood sugars are currently controlled (i.e., blood sugar levels above the guidelines supported therapeutic goal of A1c [a reflection of blood sugars over a period of time] of less than 7%). Pharmacy claims do not indicate the member is on any diabetes medication.

Therefore, evidence that consistent use of metformin (at appropriate doses) has failed to control your blood sugars has not been demonstrated.

If, in the future, you are unable to control your blood sugars with use of metformin (at max tolerated doses) or other blood sugar lowering agents and Ozempic will be an add-on to your regimen, a new request can be submitted to HAP for review.

Therefore, because this request does not meet HAP's Criteria for Use of Ozempic, the decision is to uphold the original denial.

Petitioner's Argument

In the request for external review, the Petitioner wrote:

In my denial letter it states that I am not taking any diabetic medications. I have attached pharmacy record of the past 2 years of the Metformin and Pioglitazone that I have been taking.

My physician believes that adding Ozempic will benefit my condition along with continued use of the metformin. Dr. [REDACTED] said he would be taking me off of Pioglitazone once I start Ozempic.

Director's Review

The Director assigned an independent review organization (IRO) to evaluate HAP criteria and help

determine whether the prescription drug Ozempic is medically necessary for treating the Petitioner's condition. This review is required by section 11(7) of the Patient's Right to Independent Review Act, MCL 550.1911(7).

The IRO reviewer is a physician who is board certified in endocrinology and is in active practice. The IRO reviewer's report included the following analysis and recommendation:

1. Are the plan's criteria which denied coverage for the Ozempic consistent with the standard of care?

Yes, the plan's criteria are consistent with the standard of care of Ozempic. Ozempic is a glucagon-like peptide-1 (GLP-1) receptor agonist that is indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes or to reduce the risk of major adverse cardiovascular events in adults with type 2 diabetes mellitus and establish cardiovascular disease.

2. If they are, does the member meet the criteria for coverage Ozempic?

No, the request does not meet the policy criteria.

The policy requires documentation that the claimant is currently being treated with Metformin and that the claimant has uncontrolled blood glucose levels despite consistent use of Metformin.

The claimant is documented to have been on Metformin before. The medication list (from 01/01/2023 to 09/19/2023) includes Metformin and pioglitazone. There is no documentation that the claimant has failed Metformin with evidence by an A1c level or blood glucose levels. There is no documentation in the form of medical records of the claimant's current treatment regimen.

Using the HAP Criteria for Use of Drugs dated 08/21/2024, the claimant does not meet the requirements for approval:

1. As an adjunct to diet and exercise to improve glycemic control in adults PCM review: Post Gastric Bypass and severe hypoglycemia, medical with type 2 diabetes mellitus. (FOA approved use.) Necessity review will be performed.
2. Member failed to achieve glycemic control with metformin therapy. (not met)
3. Authorization is for only ONE GLP-1 medication to process at a time.

Therefore, the request does not meet the policy criteria, and the decision has been made to uphold the denial of Ozempic.

The IRO reviewer recommended that the Director uphold HAP's denial of coverage.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the recommendation is afforded deference by the Director. In a decision to uphold or reverse an adverse determination, the Director must cite "the principal reason or

reasons why the director did not follow the assigned independent review organization's recommendation." MCL 550.1911(18)(b). The IRO's review is based on extensive experience, expertise, and professional judgment. In addition, the IRO's recommendation is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(17).

The Director, discerning no reason why the IRO's recommendation should be rejected in the present case, finds that Ozempic is not medically necessary, and therefore, is not covered under the Petitioner's benefit plan.

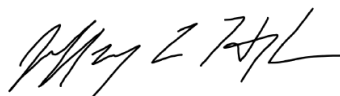
IV. ORDER

The Director upholds Health Alliance Plan of Michigan's September 20, 2024, 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 Appeals, Legal Research, and Market Regulation, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director

For the Director:



Jeffrey Hayden
Special Deputy Director