

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. 236165-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 6th day of June 2025
by Jeffrey Hayden
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 14, 2025, ██████████, MSW, authorized representative of ██████████ (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 an out-of-state exception. On May 22, 2025, the Director accepted the request for review.

The Petitioner receives health care benefits through a plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are described in BCBSM's *Blue Cross Premier PPO Silver Extra Benefits Certificate* (the certificate). The Director notified BCBSM of the external review request and asked for the information used to make its final adverse determination. BCBSM responded on May 22 and 29, 2025.

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

The Petitioner resides in ██████████ and has a substance use disorder. From June 9, 2024, through September 12, 2024, the Petitioner received inpatient residential substance disorder treatment services at Recovery at the Crossroads (Crossroads) in ██████████. Crossroads does not participate with BCBSM or

the local Blue Cross Blue Shield plan in [REDACTED]. The amount charged was \$195,965.00. BCBSM denied coverage on the basis that it does not cover residential substance abuse treatment unless it is provided by a participating substance abuse treatment facility or the services are preapproved by BCBSM prior to them being rendered. The Petitioner's authorized representative requested an out-of-state exception for the services but BCBSM denied the request on the basis it excludes coverage for residential substance abuse treatment when rendered by a non-participating provider.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated February 10, 2025, affirming its coverage denial. The Petitioner now seeks the Director's review of that final adverse determination.

III. ANALYSIS

Petitioner's Argument

In a letter accompanying the request for review, the Petitioner's authorized representative wrote:

On behalf of [the Petitioner] Recovery at the Crossroads is requesting an appeal to cover ASAM 2.1 (IOP). Recovery at the Crossroads (RAC) is a fully licensed & JHACO accredited substance abuse and co-occurring Kosher treatment facility. A retro authorization with a Single Case Agreement is being requested due to the fact that [the Petitioner] is an Ultra-Orthodox Jewish male with specific cultural and religious needs that are unable to be treated in a traditional secular environment. Additionally, no in-network facilities can accommodate the patient's specific cultural and/or religious needs. This letter will prove that the alternate facilities offered are truly unable to treat his complicated religious and family background.

[The Petitioner] is an orthodox Jewish male who grew up in [REDACTED]. He attended and resided at a [REDACTED]). This SCA request is due to cultural and religious barriers. Sending him to a secular facility would be setting him up for failure. He currently struggles with recovery and religion. He suffers from anxiety and depression, leading him to turn to alcohol to help him cope. Client has been hospitalized in the past due to his drinking habits which led to blackouts amongst other symptoms.

As a religious Orthodox Jew, he is required to abide by a strictly Kosher diet, pray 3 times a day, observe Shabbos and Jewish holidays. This creates not only social barriers requiring an intimate understanding of the cultural nuances of his community, but technical barriers to treatment as well, such as preferred language, dietary needs and scheduling accommodations. [The Petitioner's] group and individual therapy sessions frequently involve processing the intersection of his religious values, with his diagnosed substance use disorder, triggers, and sober coping skills. The specialized training throughout the center staff, both clinical and not, creates a safe environment for this blend of understanding with treatment for optimal success.

- The curriculum at RAC is designed to identify and prevent the religious and cultural barriers which can interfere with treatment and recovery. Yalom frequently discusses how universality is one of the important therapeutic factors of group therapy.
- There is an in-house, clinically trained Rabbi available for consultations. ([The Petitioner] speaks with our in-house Rabbi for guidance, for example around 12 step meetings which takes place inside churches and can contradict Jewish Law by attending. Our in-house Rabbi is specifically familiar with the therapeutic aspect of this and other religious and cultural barriers/conflicts and can help him differently than any other therapist as he also understands the Jewish Law application of these conflicts. He is able to reassure [the Petitioner], assist in removing the religious internal barrier for [the Petitioner], enabling him to fully focus on his recovery.)
- RAC is vigilant in providing any non-Orthodox employees with specialized training to ensure all members of his care team are culturally sensitive and understanding, as well as clinically trained to treat the specific culturally related triggers and trauma contributions.
- The center has a fully kosher kitchen allowing this member to eat the food within the facility (coffee, snack, lunch, etc.) together with his peers without worrying if the food or space is kosher.
- RAC has a dedicated space for Daven (prayer), mezuzahs placed on doors for comfort, and culturally appropriate literature for the member to read in Hebrew.
- RAC provides therapists fluent in Hebrew and Yiddish to better serve clients like [the Petitioner] that have a language barrier. Both individual and group sessions are offered in Hebrew and Yiddish to allow clients to better understand others and communicate their own needs in their primary language. This allows clients to better express themselves and feel more comfortable while communicating with staff and peers.

Authorizing treatment at Recovery at the Crossroads (a program who has a structure and curriculum designed for members of the Orthodox Jewish community) statistically increases [the Petitioner]'s chances of sustained recovery. In turn, we, as a behavioral health system produce positive results evidenced by lower rates of readmissions to the same or higher level of care. RAC alumni statistics reflect this statement, indicative that culturally specific treatment is medically necessary to treat to substance use disorder when using as an outcome measurement.

Outcomes based on RAC data:

Clients that identified as Jewish or who requested a kosher diet that were readmitted to our program after leaving.

1/1/2020-1/25/2024 we admitted 146 clients of those 14 were readmitted.

For the year of 2023 we admitted 39 clients into the program, only 4 were readmitted

There is a roughly 90% success rate in preventing readmissions in our program that focuses on culturally based treatment.

Additionally:

RAC called the 53 clients that fully graduated the program. Of those, 30 answered the phone.

From those 30: 27 were still sober, 2 of them were readmitted to a higher level or the same level of care for SUD treatment since exiting the program.

Success rate: 90%

These are strong numbers, given that according to the National Institutes of Health (NIH), the relapse rate for substance abuse ranges from 40-60%. Today, the success number of RAC is 30-50% higher than the national average.

Cultural competence is defined as "the ability of health providers and organizations to deliver health care services that meet the cultural, social, and religious needs of patients and their families." D. Swihart et al., Cultural Religious Competence in Clinical Practice, NATIONAL LIBRARY OF MEDICINE, available here (last updated November 14, 2022). Federal regulations require health care services to be provided in a culturally competent manner that meets the patient's individual needs. See 42 C.F.R. § 440.262; see also 42 C.F.R. § 422.112. Additionally, [REDACTED] standards for the licensure of residential substance abuse disorders treatment facilities require the establishment, implementation, and maintenance of policies and procedures that are "sensitive to cultural, religious, ethnic, age, and gender issues." N.J.A.C. 8:111-6.1.

Notably, both government agencies and medical organizations encourage the provision of culturally competent care that is patient-centered and sensitive to the cultural needs of religious/ethnic minorities. For example, recognizing that every patient is entitled to receive care that is effective for his/her specific medical condition, the Joint Commission has established standards for cultural competence in which providers are expected to accommodate a patient's cultural and religious needs. In connection with these standards, the Joint Commission issued "A Roadmap for Hospitals," which states the following:

Hospitals need to respect patient diversity and integrate the concepts of cultural competence and patient- and family-centered care into the delivery system [Hospitals should] [p]rovide resources and tools to meet the cultural and religious needs of the most frequently encountered populations. For example, if the hospital serves a large Orthodox Jewish population, make staff aware of the dietary needs, customs, and religious practices that may affect care in this population.

Advancing Effective Communication, Cultural Competence, and Patient- and Family-Centered Care: A Roadmap for Hospitals The Joint Commission (2010), available here. Similarly, the Office of Minority Health at the U.S. Department of

Health and Human Services has established national standards for the provision of culturally and linguistically appropriate services ("CLAS") which are aimed at reducing health disparities and achieving health equity. National Culturally and Linguistically Appropriate Services Standards, OFFICE OF MINORITY HEALTH, available here. These standards emphasize the importance of developing policies and processes that respond to the specific cultural diversity of populations where the services are being provided.

Of particular importance, the Center for Substance Abuse Treatment, part of the Substance Abuse and Mental Health Services Administration within the U.S. Department of Health and Human Service issued a Treatment Improvement Protocol ("TIP") that specifically addresses cultural competency within the context of intensive outpatient treatment ("IOT") for substance abuse. CENTER FOR SUBSTANCE ABUSE TREATMENT, SUBSTANCE ABUSE: CLINICAL ISSUES IN INTENSIVE OUTPATIENT TREATMENT ("TIP 47") (2006), available here.² TIP 47 provides principles for delivering culturally competent IOT services to individuals with diverse backgrounds, and it points to clinical research that supports the need for individualized treatment that is sensitive to a patient's culture. Id. at 179-204.

In addition to the overall structural and operational accommodations that create an atmosphere more conducive to healing for an Orthodox Jew, [the Petitioner] had specific needs that were unable to be accommodated elsewhere.

1. **Scheduling:** [The Petitioner] treatment took place during Jewish holidays. The facility follows a Hebrew calendar to ensure [the Petitioner] can observe all Jewish holidays without missing treatment and can attend on secular holidays he does not observe
2. **Transportation:** [The Petitioner] did not have his own transportation to treatment. To reduce barriers to care and encourage and support compliance, RAC offers transportation to group and individual sessions from local sober living homes for all levels of care. RAC provided [the Petitioner] transportation regularly to his group and individual sessions.
3. **Social Barrier:** [The Petitioner] has spent the last few years studying and residing in a yeshivah where he was immersed in Jewish religion and culture. This includes style of learning, conversing and processing information. In addition, he was fully surrounded by a culture very different from the outside world. Although [the Petitioner] was introduced to orthodox Judaism later on in life known as a "Baal Teshuvah" this generally brings out a more stringent adherence to culture and religion. Working with an orthodox Jewish therapist as well as a with a treatment team that is intimately familiar with orthodox Judaism puts him on the best track of recovery.

Applying widely recognized cultural competency standards, the requested treatment in this case should be approved at Recovery at the Crossroads because the patient has unique needs that justify treatment at a specialized facility that can accommodate his/her cultural and religious values.

Allowing [the Petitioner] to participate in services that are in line with the religious, cultural, and specifics of his religion; we as a behavioral health system exponentially increase participation and completion rates as well as a longevity of his sobriety. Statistically, we prevent relapse and readmission which requires authorization for a higher level of care. Historically, for [the Petitioner] that includes hospitalization and several emergency rooms.

We are respectfully requesting an appeal with an SCA¹ based on the attached documents related to treatment for member.

Respondent's Argument

In its final adverse determination, BCBSM wrote:

After review, I confirmed the claims processed correctly and the denial of payment is maintained. You remain responsible for the non-covered charges.

You are covered under the Blue Cross Premier PPO Silver Extra Benefits Certificate. Your health care plan covers medically necessary and medically appropriate services to evaluate, diagnosis, and treat behavioral health services (mental health and substance use disorders) in accordance with generally accepted standards of practice (page 34).

Page 39 of the *Certificate* explains that we pay for substance use disorder treatment services in:

- **A participating hospital**
- **A participating residential or outpatient substance abuse treatment facility**
- **A participating outpatient psychiatric care (OPC) facility**
- **An office**

Page 41 of the *Certificate* explains further explains that benefits are provided for substance use disorder intensive outpatient program (IOP):

- The following services are payable when hospitals and outpatient psychiatric care facilities have an IOP and participate with BCBSM (if located in [REDACTED] or with its local Blue Cross/Blue Shield plan (if located outside of [REDACTED])
 - Services provided by the hospital's or facility's staff
 - Ancillary services
 - Individual psychotherapeutic treatment
 - Group psychotherapeutic treatment
 - Family counseling

¹ An SCA would be something negotiated between the facility and BCBSM if outside of the scope of a member's coverage and the Director would not be a party to such negotiations.

In this case, the provider, Recovery at the Crossroads, does not participate with Blue Cross Blue Shield of Michigan or its local Blue Cross Blue Shield plan in [REDACTED]. Therefore, the claim denials are appropriate.

I reviewed the phone calls your authorized representative placed to our offices on June 6, 2024, June 7, 2024, June 21, 2024, July 3, 2024, September 11, 2024, September 20, 2024, and October 1, 2024. During these phone calls, your provider was informed that behavioral health services are not covered under the plan when performed by an out-of-state, non-participating provider.

During the call placed on June 7, 2024, you and the provider requested benefit information for procedure code H0015 (drug, alcohol and behavioral health services). The customer service representative explained that the service is a benefit, but because the provider was located outside of [REDACTED] you would need to complete an out-of-state exemption form. As you may know, Blue Cross received the out-of-state exemption form and denied the request. To clarify, the out-of-state exemption only waives the out-of-network cost share. In this case, the services are simply not a benefit when care is provided by a non-participating provider.

While we regret the confusion this may have caused, your authorized representative was informed on prior and subsequent calls to our office that if treatment/care for a mental health and substance use disorder was performed by a non-participating provider, no benefits were available.

Director's Review

The certificate (page 39) under "Substance Use Disorder Services" states:

Locations: We pay for substance use disorder treatment services in:

- A participating hospital
- A participating residential or outpatient substance abuse treatment facility
- A participating outpatient psychiatric care (OPC) facility
- An office

We pay for:

- Inpatient Hospital
 - Acute detoxification when provided in a participating hospital
- NOTE: Acute detoxification is covered and paid as a medical service
- Residential and Outpatient Substance Abuse Treatment Facility
 - Services must be medically necessary to treat the member's condition.

- Services in a residential substance abuse treatment facility must be preapproved by BCBSM.
- Services must be provided by a participating substance abuse treatment facility.

Continuing in the certificate (page 41) under “Substance Use Disorder Intensive Outpatient Program (IOP)” it states:

The following services are payable when hospitals and outpatient psychiatric care facilities have a IOP and participate with BCBSM (if located in [REDACTED] or with its local Blue Cross/Blue Shield plan (if located outside of [REDACTED])

- Services provided by the hospital’s or facility’s staff
- Ancillary services
- Individual psychotherapeutic treatment
- Group psychotherapeutic treatment
- Family counseling

We do not pay for:

- Prescribed drugs given by the hospital or facility during the member’s treatment
- Psychological testing

From June 9, 2024, through September 12, 2024, the Petitioner received inpatient substance disorder treatment services at Recovery at the Crossroads in [REDACTED]. Crossroads does not participate with BCBSM or the local Blue Cross Blue Shield plan of [REDACTED]. The certificate is clear that services received in a residential substance abuse treatment facility must be preapproved by BCBSM and must be provided by a participating substance abuse treatment facility. In addition, an “Individual Business PPO Out of State Exception Form” was submitted to BCBSM, requesting an exception for coverage, which was subsequently denied by BCBSM on June 21, 2024. Since the services must first be prior authorized, there is nothing in the certificate, applicable law, or regulation that would require BCBSM to authorize coverage for the services in this appeal. Therefore, the Petitioner remains responsible for the \$195,965.00 for the non-covered inpatient services received from June 9, 2024, through September 12, 2024.

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

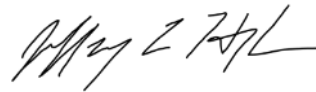
IV. ORDER

The Director upholds Blue Cross Blue Shield of Michigan’s February 10, 2025, 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