

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

In the matter of:

██████████,

Petitioner,

v

File No. 151484-001

Blue Cross Blue Shield of Michigan,

Respondent.

Issued and entered
this 20th day of January 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) had an allergy test. She believes her health insurance carrier, Blue Cross Blue Shield of Michigan (BCBSM), erred when it applied its approved amount for that test, \$602.24, to her in-network deductible.

On December 28, 2015, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of BCBSM's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On January 6, 2016, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits as a dependent through an individual plan that is underwritten by BCBSM. The Director immediately notified BCBSM of the external review request and asked for the information used to make its final adverse determination. The Director received BCBSM's response on January 11, 2015.

This case presents issues of contractual interpretation. The Director 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

The Petitioner's health care benefits are defined in BCBSM's *Blue Cross Premier Bronze Extra Benefits Certificate*¹ (the certificate).

On September 18, 2015, the Petitioner received allergy testing services from a participating provider. The provider billed the testing using CPT code 95004 ["percutaneous tests (scratch, puncture, prick) . . . specify number of tests"]. BCBSM's approved amount for the test was \$602.74 and it applied that amount to the Petitioner's in-network deductible.

The Petitioner's mother appealed BCBSM's decision through its internal grievance process, arguing that only \$9.41 should be applied to the deductible. At the conclusion of the grievance process, BCBSM issued a final adverse determination dated December 15, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did BCBSM apply the correct amount to the deductible for the Petitioner's allergy testing?

IV. ANALYSIS

Petitioner's Argument

The Petitioner's position was explained in a November 3, 2015, letter the Petitioner's mother had written to BCBSM:

I am writing to make an appeal concerning coverage of an allergy test my daughter . . . had on 9/18/15. I made a call to Blue Cross on 9/14/15 to verify what tests would be covered under our Blue Cross plan My doctor had given me the test codes to present to Blue Cross. . . . [REDACTED] your employee, stated I would be expected to pay approximately \$9.41 for code 95004. . . . Enclosed is a copy of my Explanation of Benefit Payments. As you can see . . . test coded #95004 wasn't \$9.41 but \$602.24. This matter was brought to the attention of a supervisor . . . and she called me today on 11/3/15 at 10:00am. She encouraged me to make this appeal because your Blue Cross employees don't have enough information to give your clients accurate prices. She also stated to me that she was writing her account and recommendations to your office. She told me that I didn't make any errors and that I should be given a refund. In our cases of the test code #95004, the price given me of \$9.41 was per unit not per test. If I had been asked, "how many

¹ BCBSM form no. 820H, effective 08/2015.

units is your Doctor going to use?" I could have then checked further with my doctor. . .

In short, I am asking for a refund of $\$602.24 - 9.41 = 592.83$

BCBSM's Argument

In its final adverse determination, BCBSM told the Petitioner's mother:

[The Petitioner] is covered under the *Blue Cross Premier Bronze Extra Benefits Certificate (Certificate)*. As explained on Page 18 of **Section 3: What BCBSM Pays For**, allergy testing is covered under [the Petitioner's] health care plan. However, these services are subject to contractual cost share requirements. . . .

* * *

Our records show that at the time the claim was processed, [the Petitioner's] individual deductible requirement had not been satisfied. As such, [she] remains liable for the in-network deductible requirement of \$602.24.

In your appeal letter, you stated that you were informed by a BCBSM Customer Service Representative that the allowed amount for this service was \$9.41. You explained that you were later advised that the allowed amount was per unit of service. To give your appeal full consideration, I listened to your customer service call from September 14, 2015.

During the call, the customer service representative correctly advised that the allowed amount for Procedure code 95004 was \$9.41. However, we are unable to surmise how many times a procedure may be conducted. In this instance, [the] provider billed 64 units of Procedure code 95004.

According to BCBSM's notes for the Petitioner's grievance, a customer service representative "contacted [*the allergy*] provider who stated that they provide the procedure code to people to see if they have allergy coverage, said there is no way to determine the units to be used until they see the patient, up to 96 units could be used. 64 units correct."

Director's Review

There is no dispute that the Petitioner's allergy tests were subject to a deductible. There is also no dispute that CPT code 95004 may be used (and billed) in multiple "units." The only issue is whether BCBSM correctly processed the claim for the Petitioner's allergy test.

The Petitioner's mother was diligent about contacting BCBSM in advance with specific procedure codes to confirm that the Petitioner's allergy tests would be covered. But she apparently was not aware that the Petitioner would need multiple units of the allergy test when she called BCBSM; there was no indication that the Petitioner's physician had informed her that

up to 96 units might be used. BCBSM correctly told the Petitioner's mother that the cost sharing would be \$9.41; it had no reason to further inquire about how many units would be used. There is no basis in this record for finding that BCBSM provided incorrect or insufficient information.

The Director finds nothing in the certificate or the Insurance Code that would permit a reversal of BCBSM's decision. The claims for the allergy tests under CPT code 95004 were correctly processed according to the terms and conditions of the certificate.

V. ORDER

The Director upholds BCBSM's final adverse determination dated December 15, 2015.

This is a final decision of an administrative agency. 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. See MCL 550.1915(1). A copy of the petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director