

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. 147411-001-SF

Wayne State University, Plan Sponsor
and
Automated Benefit Services, Inc., Plan Administrator
Respondents

Issued and entered
this 19th day of May 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 17, 2015, ██████████ (Petitioner) filed with the Director of Insurance and Financial Services a request for external review of a claim denial issued by Automated Benefit Services, Inc. (ABS), the administrator of the Petitioner's health benefit plan which is sponsored by Wayne State University.

The request for external review was filed under Public Act No. 495 of 2006(Act 495), MCL 550.1951 *et seq.* Act 495 requires the Director to provide external reviews to a person covered by a self-funded health plan that is established or maintained by a state or local unit of government. The Director's review is performed "as though that person were a covered person under the Patient's Right to Independent Review Act." (MCL 550.1952) The Petitioner's health benefit plan is such a governmental self-funded plan. The plan's benefits are described in Wayne State University's *DMC Care Health Plan*.

The Director notified ABS of the appeal and asked that it provide the information used to make its final adverse determination. ABS furnished its response on April 21, 2015. On April 24, 2015, after a preliminary review of the information submitted, the Director accepted the Petitioner's request.

To address the medical issue in this case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation on May 8, 2015.

II. FACTUAL BACKGROUND

The Petitioner has bipolar disorder for which she was treated with the prescription drugs Risperidone and Oxcarbazepine. When she became pregnant her physician recommended that she continue her medications. She had an ultrasound during the first trimester of her pregnancy and underwent three subsequent ultrasounds on October 28, November 24, and December 22, 2014.

ABS denied coverage for the three later ultrasounds, ruling that they were not medically necessary for the treatment of the Petitioner's condition. The Petitioner appealed the denial through the plan's internal grievance process. On April 2, 2015, ABS issued a final adverse determination affirming its denial. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did ABS correctly deny coverage for the Petitioner's October 28, November 24, and December 22, 2014 ultrasounds?

IV. ANALYSIS

Respondent's Argument

In the final adverse determination ABS wrote:

Based on a medical independent review it has been determined the ultrasounds are not medically necessary. The plan excludes any services, supplies or treatments that are not deemed medically necessary for that are not consistent with current standards of acceptable medical treatment. One routine ultrasound test per pregnancy will be covered. Additional ultrasound tests will be covered only if medically necessary.

Petitioner's Argument

In her external review request the Petitioner wrote:

My OB/GYN classified me as a high risk pregnancy and ordered medically necessary ultrasounds on Oct 28, Nov 24, and Dec 22, 2014 to monitor fetal development. ABS refused to pay for these ultrasounds because they determined in an internal medical review that they were not medically necessary. I am appealing this decision and asking that these 3 ultrasounds be paid for by ABS.

The Petitioner also included with her external review request a January 15, 2015 letter from her physician who wrote:

[Petitioner] is currently 34 weeks gestational age. She is high risk due to long term drug exposure of Risperidone 1mg and Oxcarbazepine 450mg. [Petitioner] was diagnosed with bipolar disease in 2004. She was hospitalized in the past for a manic exacerbation. She is under the active supervision and care of a psychiatrist. Her psychiatrist is aware of the pregnancy and has recommended continuation of these medications. She also underwent a consultation at [REDACTED]-[REDACTED], who also advised the continuation of these medications.

Risperidone, is a category C drug and there is no controlled data in human pregnancy. Animal studies have reported an increase in stillborn and an increase in pups deaths. Exposure to this drug during the third trimester should be monitored for extrapyramidal and/or withdrawal symptoms following delivery.

Oxcarbazepine, is a category D drug, which have caused, are suspected to have cause or may be expected to cause, an increased incidence of human fetal malformations or irreversible damage. It is recommended that ultrasounds be offered mid trimester for fetal monitoring.

Director's Review

The *DMC Care Health Plan* (page 41) allows coverage for one routine ultrasound test per pregnancy. Additional ultrasound tests will be covered only if medically necessary. To determine if the three additional ultrasounds the Petitioner received were medically necessary, the Director assigned this case to an independent review organization (IRO) as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO reviewer is a physician in active practice who is certified by the American Board of Obstetrics and Gynecology with a subspecialty in maternal and fetal medicine. The reviewer is an assistant professor at an university based school of medicine and is published in peer reviewed literature. The IRO report included the following analysis and recommendation:

It is the determination of this reviewer that the ultrasounds performed on October 28, 2014, November 29, 2014 and December 22, 2014 were not medically necessary for the treatment of the enrollee's condition.

Clinical Rationale for the Decision:

This enrollee was noted to have type I bipolar disorder and was managed on medications (Risperidone and Oxcarbazepine). There was no finding of size

less than dates or abnormal fundal height on any of the visits during her prenatal care. There was also no acute condition that was reported on any of the ultrasound dates that would have indicated a need for a growth ultrasound. In this case, based upon the letters from the providers, the ultrasounds were performed for fetal growth due to the mothers' use of medications to treat type I bipolar disorder. However, there is no data to support the need for growth ultrasound/serial surveillance due to the use of these medications in type I bipolar disorder and pregnancy. A study of growth in infants exposed to Risperidone noted that there was no evidence of lagging growth by fundal heights. Thus, there would be no indication to perform repeat ultrasounds for growth in this case. The treatment and evaluation of pregnancy in Bipolar Type I disorder is outlined by American College of Obstetricians and Gynecologists (ACOG) in the ACOG Practice Bulletin entitled "Use of Psychiatric Medications During Pregnancy and Lactation." This document states the following should be considered, "Prenatal surveillance for congenital anomalies by maternal serum alpha-fetoprotein level testing, fetal echocardiography, or a detailed ultrasound examination of the fetal anatomy or a combination of these procedures should be considered." Thus, there is no recommendation for serial growth ultrasound in these cases.

* * *

Recommendation:

It is the recommendation of this reviewer that the denial issued by Automated Benefit Services, Inc. for the ultrasounds performed on October 28, 2014, November 29, 2014 and December 22, 2014 be upheld.

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(16)(b).

The IRO's analysis is based on extensive experience, expertise, and professional judgment and is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15). The Director can discern no reason why the IRO's recommendation should be rejected in the present case.

The Director finds that the three additional ultrasounds the Petitioner received on October 28, 2014, November 29, 2014 and December 22, 2014, were not medically necessary to treat her condition and are therefore not covered benefits.

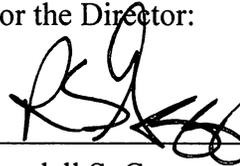
V. ORDER

The Director upholds ABS's April 2, 2015 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 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 General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:

A handwritten signature in black ink, appearing to read 'R. S. Gregg', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director