

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. 151037-001

Alliance Health and Life Insurance Company,
Respondent.

Issued and entered
this 29th day of December 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for back surgery by her health insurer, Alliance Health and Life Insurance Company (Alliance).

On November 25, 2015, she filed a request with the Director of Insurance and Financial Services for an external review of that denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits under a group plan that is underwritten by Alliance. The Director immediately notified Alliance of the external review request and asked for the information it used to make its final adverse determination. Alliance responded on December 1, 2015. On December 1, 2015, after a preliminary review of the material submitted, the Director accepted the request.

Because the case involves a medical issue, it was assigned to an independent medical review organization which provided its analysis and recommendation to the Director on December 15, 2015.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in the Alliance's *Preferred Provider Organization Group Health Insurance Policy* (the policy).

The Petitioner has sacroiliitis, lower and upper back pain, neck pain, fibromyalgia, and scoliosis. She has received various types of treatment for back pain over the past ten years with limited relief. Her physician asked Alliance to authorize left sacroiliac joint fusion surgery to treat her condition. Alliance

denied the request, saying the surgery is not medically necessary because the Petitioner does not meet its criteria.

The Petitioner appealed the denial through Alliance's internal grievance process. At the conclusion of that process, Alliance issued a final adverse determination dated October 9, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did Alliance correctly deny coverage for sacroiliac joint fusion surgery?

IV. ANALYSIS

Petitioner's Argument

In her external review request, the Petitioner said she is currently receiving cortisone injections every four months but they are only effective for a month. She also says that she uses a cane and walker.

The Petitioner's pain specialist, in a note dated March 2, 2015, gave this background:

HISTORY: [The Petitioner] presents to the office today in follow up. She was evaluated . . . back in March 2014 for chronic pain. At that time, he recommended to follow up with pain management regarding a spinal cord stimulator or possible intrathecal pain pump. She presents to the office today stating she did not wish to proceed with those interventions. She continues to suffer from chronic low back pain, but more bothersome to her is she is suffering from bilateral sacroiliitis. She presents to the office today requesting information regarding an SI fusion. She states she has had several SI injections . . . with relief.

* * *

MEDICAL DECISION MAKING: IMPRESSION/PLAN: [The Petitioner] was made aware since she has undergone physical therapy without significant relief and has had some relief from bilateral SI injections, we will proceed with an SI fusion. We will start with her left SI joint considering it is more bothersome than the right. We will assess how she responds to surgery and then address the other SI joint. She was made aware of all the postoperative restrictions. We will obtain an x-ray of her bilateral hips to rule out any acute pathology before proceeding with surgery. We will call her regarding scheduling.

Respondent's Argument

In its final adverse determination, Alliance informed the Petitioner:

Final Internal Adverse Benefit Determination:

We upheld the denial because after a review with [REDACTED] Neurosurgeon, there were no previous fusions performed up to the level of L5-S1. There is no evidence for only a Sacroiliac Joint Fusion. The criteria for a Sacroiliac Joint Fusion are covered when performed as part of multi-segmental long fusions for the correction of spinal deformity.

Director's Review

The policy (p. 5) only covers services that are medically necessary. In the Petitioner's case, medical necessity for surgery is established by the criteria in Alliance's medical policy "Sacroiliac (SI) Joint Fusion." That medical policy says:

1. Sacroiliac joint fusion is covered for HAP/Alliance Members when ALL of the following criteria are met:
 - A. ANY one of the following conditions
 1. Post-traumatic injury of the SI joint (eg., following pelvic ring fracture)
 2. As an adjunctive treatment for sacroiliac joint infection or sepsis
 3. Management of a sacral tumor (eg., partial sacrectomy)
 4. When performed as part of multisegmental long fusions for the correction of spinal deformity (e.g., idiopathic scoliosis, neuromuscular scoliosis)
 - B. Appropriate imaging studies demonstrate localized sacroiliac joint pathology
 - C. the Member is a nonsmoker or, in the absence of an emergent medical need, will refrain from tobacco use for at least six weeks prior to the planned surgery
 - D. Must be ordered and performed by a HAP/Alliance Affiliated or Contracted Orthopedic Surgeon or Neurosurgeon.
 - E. Must be performed at a HAP/Alliance Affiliated or Contracted Facility.
 - F. Must be authorized by a HAP Medical Director or designee.

To determine if the Petitioner met Alliance's criteria for sacroiliac joint fusion surgery, or if the surgery was otherwise medically necessary, the Director assigned this case to an independent review organization (IRO) for analysis and a recommendation as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is board certified in orthopedic surgery, is fellowship trained in spinal surgery, has been in active practice for more than 18 years, and is familiar with the medical management of patients with the Petitioner's condition. The IRO report included this analysis and recommendation:

This case concerns a [REDACTED] year-old [REDACTED] who has requested authorization and coverage for sacroiliac joint fusion. The Health Plan denied this request on the basis that the member does not meet its criteria for coverage of these services.

* * *

The MAXIMUS physician consultant determined that the Health Plan's policy regarding sacroiliac joint fusion is consistent with current medical standards of care and that the member does not meet the criteria set forth in this policy. The physician consultant explained that the medical records provided for review do not indicate any evidence of sacroiliac joint instability, fracture or tumor. The previous fusion did not involve the pelvis or the L5 level. The consultant indicated that sacroiliac joint fusion is not likely to relieve the member's back pain.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the requested sacroiliac joint fusion is not medically necessary for treatment of the member's condition. [Citations omitted]

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. In addition, the IRO's recommendation is not contrary to any provision of the Petitioner's subscriber contract. 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 Petitioner's requested sacroiliac joint fusion surgery is not medically necessary to treat the Petitioner's condition, and is therefore not a covered benefit under the policy.

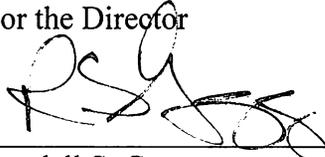
V. ORDER

The Director upholds Alliance's adverse determination of October 9, 2015.

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 sixty 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 General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director



Randall S. Gregg
Special Deputy Director