

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. 146246-001

Aetna Life Insurance Company
Respondent

Issued and entered
this 5th day of May 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 2, 2015, ██████████ (Petitioner) filed a request with the Director of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The request for review involved a denial of coverage issued by the Petitioner's health insurer, Aetna Life Insurance Company.

The Petitioner's health care benefits are defined in Aetna's *Individual Advantage Plan – Michigan*. The Director notified Aetna of the external review request and asked for the information used to make its final adverse determination. Aetna furnished the requested information on April 3, 2015. After a preliminary review of the material submitted, the Director accepted the case for external review on April 9, 2015.

The case involves medical issues so the Director assigned the matter to an independent review organization, which completed its review and sent its recommendation to the Director on April 23, 2015.

II. FACTUAL BACKGROUND

The Petitioner is a 53 year-old male who, in July 2014, was being evaluated at the ██████████ for a liver transplant. His physician requested coverage for an echocardiogram that included a color-flow Doppler test. Aetna denied coverage for the color-flow Doppler test, ruling that it was experimental/investigational in the Petitioner's case.

The Petitioner appealed the denial through Aetna's internal grievance process. At the

conclusion of that process, Aetna issued its final adverse determination dated October 14, 2014, affirming its decision. The Petitioner now seeks a review of the adverse determination from the Director.¹

III. ISSUE

Was the color-flow Doppler portion of the Petitioner's July 15, 2014 echocardiogram experimental or investigational in evaluating the Petitioner's condition?

IV. ANALYSIS

Respondent's Argument

Aetna's final adverse determination provided the following explanation for its denial of coverage:

Aetna considers color-flow Doppler echocardiography in adults medically necessary for the following indications:

1. Evaluation of aortic diseases
2. Evaluation of prosthetic valves
3. Evaluation of septal defects
4. Evaluation of site of left-to-right shunts
5. Evaluation of aortocoronary bypass grafts
6. Evaluation of the severity of valve stenosis or regurgitation

Aetna considers color-flow Doppler echocardiography in adults experimental and investigation for all other indications. In this case, there are no medical records submitted for review to determine if any of the above covered indications are met, and the diagnosis code(s) in the claims history does not document a covered diagnosis or indication.

Petitioner's Argument

In the request for an external review, the Petitioner wrote:

After numerous phone calls and requests for a copy of my appeal determination from you regarding the above referenced claim, I have finally received it in the mail. The letter is postmarked 1/26/2015. Over 5 months to receive your determination seems a bit excessive.

1. Aetna argued that the Petitioner's request for an external review was untimely since it was submitted 67 days after the date of Aetna's final adverse determination. The Director rejected that argument based on documents submitted by the Petitioner which established that the request for review was filed within the required sixty days of the Petitioner's receipt of Aetna's final adverse determination. See MCL 550.1911(1).

I am officially requesting an External Review of this claim as I believe it does not fall under your definition of experimental. I am a transplant patient, as you are aware and this test was required to determine that my heart was healthy enough to qualify for the liver transplant. You will note that you have two claims for this procedure, one from the facility and the other from the physician. The total amount for this test is \$708.00, not the \$287.00 that you indicated in your response.

I am also sending you the medical records for this visit. As I have been sent to collections for these claims, I would appreciate a quick response. I would also ask that you verify that you have received this request.

Director's Review

The question of whether the color-flow Doppler portion of the Petitioner's echocardiogram was experimental or investigational was presented to an independent review organization (IRO) for analysis 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 internal medicine and cardiology, has been in active practice for more than 15 years, and is familiar with the medical management of patients with the Petitioner's condition. The reviewer's report included the following analysis and recommendation:

[B]ased on the information provided for review, the member was being evaluated for a liver transplant, which implies some degree of liver failure....[P]atients with liver failure are prone to developing significant pulmonary hypertension (porto-pulmonary hypertension). Screening for pulmonary hypertension and its consequences, such as tricuspid regurgitation, right heart enlargement and right heart dysfunction, is an integral part of the transplant evaluation process since the presence of significant pulmonary hypertension increases perioperative risk during transplantation and, if severe, may render a patient ineligible for transplantation.... [T]he standard accepted screening test for evaluation of pulmonary hypertension and its consequences is Doppler echocardiography, as was used in this case. The Doppler echocardiography demonstrated only minimal tricuspid regurgitation and estimated pulmonary artery pressure in a normal range....[T]he results of this noninvasive cardiac Doppler evaluation avoided the need for invasive right heart catheterization to directly measure pulmonary artery pressure....[T]he Doppler portion of the echocardiogram was therefore medically necessary, standard accepted medical practice and not experimental/ investigational.

Pursuant to the information set forth above and available documentation...the color-flow Doppler portion of the echocardiogram that the member underwent on 7/15/14 was not experimental/investigational for diagnosis and treatment of his condition.

The Director is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO is afforded deference by the Director. *Ross v. Blue Care Network of Michigan*, 480 Mich 153 (2008). 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.

The Director, discerning no reason why the IRO's recommendation should be rejected in the present case finds that Aetna's denial of coverage is not consistent with the terms of the certificate.

V. ORDER

The Director reverses Aetna's October 14, 2014, final adverse determination. As required by section 1911(17) of the Patient's Right to Independent Review Act, MCL 550.1911(17), Aetna Life Insurance Company shall immediately provide coverage for the color-flow Doppler portion of the Petitioner's July 15, 2014 echocardiogram, and shall, within seven days of providing coverage, furnish the Director with proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding the implementation to the Department of Insurance and Financial Services, Health Care Appeals Section, at this toll free telephone number: (877) 999-6442.

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 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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director