

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. 146994-001

Aetna Life Insurance Company  
Respondent

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Issued and entered  
this 24<sup>th</sup> day of April 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On March 25, 2015, ██████████, authorized representative of ██████████ (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 Petitioner receives health care benefits under a graduate student health policy underwritten by Aetna Life Insurance Company. The benefits are defined in Aetna's *Michigan State University Student Accident and Sickness Insurance Plan Brochure*.

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 March 30, 2015. After a preliminary review of the material submitted, the Director accepted the case for external review on April 1, 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 15, 2015.

**II. FACTUAL BACKGROUND**

The Petitioner is a 36 year-old female with a history of Crohn's disease for which she has been treated with the prescription drug infliximab, known also as Remicade. Her physician

that the Petitioner was displaying symptoms of a loss of response to Remicade. The physician scheduled a test, known as the Anser IFX, to monitor her response to Remicade. The test was performed on April 7, 2014. The provider billed \$2,500.00 for the test. Aetna denied coverage, ruling that the test is experimental/investigational for diagnosis and treatment of her condition.

The Petitioner appealed the denial through Aetna's internal grievance process. At the conclusion of that process, Aetna issued a final adverse determination dated January 27, 2015, affirming its decision. The Petitioner now seeks a review of the adverse determination from the Director.

### III. ISSUE

Was the Anser IFX testing experimental or investigational for the treatment of the Petitioner's condition?

### IV. ANALYSIS

#### Respondent's Argument

Aetna's January 27, 2015 final adverse determination provided the following explanation for its denial of coverage:

After review of the information submitted and presented, we are upholding the denial of coverage for the Prometheus Anser IFX test performed on April 7, 2014, for [Petitioner]. The information provided indicates that [Petitioner] has been treated with Remicade and has recently begun to exhibit symptoms that might indicate a loss of response to Remicade, which could be due to sub therapeutic levels of infliximab or the presence of antibodies to infliximab. Aetna does not cover measurements of serum levels of infliximab or antibodies to infliximab (human anti-chimeric antibodies) because the clinical value of these measurements for individuals receiving infliximab therapy has not been established. This determination was made utilizing the Aetna Clinical Policy Bulletin...pertaining to Remicade (Infliximab); last reviewed on November 8, 2013.

#### Petitioner's Argument

In a letter dated March 16, 2015, the Petitioner's authorized representative wrote:

There is an ever increasing body of evidence that demonstrates the impact that increasing levels of ATI [antibodies to infliximab] can have on a patient's response to infliximab. Those publications, as well as the additional, published

and peer reviewed literature listed below, clearly demonstrate that this technology cannot be considered unproven, experimental, nor not medically necessary. These, as well as many other publications provide support that the use of the data provided by this assay can be utilized by a clinician as “an effective management tool”. [Citations omitted.]

It should also be noted that this test was developed and its performance characteristics determined by Prometheus Laboratories Inc. Please note, that as a lab developed test (LDT) neither pre-market clearance nor pre-market approval under the Federal Food, Drug and Cosmetic Act [FFCDA] is required for this test to be lawfully marketed at this time.

Based upon the totality [of] all the documentation enclosed, and the additional information listed above, we are asking that the denial for the Anser IFX test be overturned and the claim processed utilizing the patient’s in-network benefits. We also ask that this review be conducted by a physician or physicians who specialize in gastroenterology....

### Director’s Review

As Aetna noted in its final adverse determination, the *Michigan State University Student Accident and Sickness Insurance Plan Brochure* (pages 62-63), excludes coverage for experimental or investigational services or procedures:

#### **EXCLUSIONS**

This Plan does not cover nor provide benefits for:

\* \* \*

25. Expenses incurred for or in connection with: procedures, services, or supplies that are, as determined by Aetna, to be experimental or investigational.

Aetna’s “Clinical Policy Bulletin” for Remicade states in pertinent part:

Aetna considers measurements of serum levels of infliximab and antibodies to infliximab (human anti-chimeric antibodies [HACA]) (e.g., the Anser IFX test [Prometheus Lab]) experimental and investigational because the clinical value of these measurements for individuals receiving infliximab therapy has not been established.

The question of whether the use of the Anser IFX test is 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 gastroenterology, 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 reviewer's report included the following analysis and recommendation:

[T]his case involves a [REDACTED] year-old female who has a history of a Crohn's disease.... The member has been under treatment for over 20 years. Most recently, the member was treated with Azathioprine and infliximab 5 mg/kg every 6 weeks. The member is also treated for constipation with Amitiza. The member has persistent complaints of abdominal pain and anorexia. On 4/17/14, the member underwent the Prometheus Anser [IFX] test, which demonstrated detectable levels of the drug [infliximab] and the absence of antibodies to the drug. Based on this result, the member's dose was reduced to Remicade every 8 weeks.

[M]onitoring patients on infliximab with measurement of infliximab levels and antibodies to infliximab continues to be an area of intense investigation. In general, infliximab levels correlate inversely with disease activity. However...the target level of infliximab necessary to achieve clinical benefit remains unknown.... [T]his is very relevant to the member's case as it is not clear how the drug level would be used to direct future care. In this case the level came back at approximately 14.... [T]he target value has been investigated and is likely between 3 and 7 ng/ml. However...there is no controlled data that has identified the optimal drug level and this issue remains speculative at this time.... [M]ore important questions than drug level involve how a patient is doing on the drug, whether the patient is responding or losing response and whether a patient is experiencing side effects.... [T]here are no randomized prospective trials demonstrating that treatment guided by trough infliximab levels is superior to optimal clinical care.

Pursuant to the information set forth above and available documentation...the Anser IFX assay that the member underwent on 4/7/14 was experimental/ investigational for diagnosis and treatment of her 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 can discern no reason why the IRO's recommendation should be rejected in the present case. Therefore, the Director finds that the Anser IFX test is experimental/investigational in the medical management of the Petitioner's condition.

**V. ORDER**

The Director upholds Aetna's January 27, 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 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:



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Randall S. Gregg  
Special Deputy Director