

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

In the matter of:

██████████
Petitioner

v

Blue Cross Blue Shield of Michigan
Respondent

File No. 145500-001

Issued and entered
this 20th day of January 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 22, 2014, ██████████ (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.* On January 2, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner lives in ██████████ but works for ██████████, a Michigan company. The Petitioner's health care benefits are provided by Infotree through Blue Cross Blue Shield of Michigan (BCBSM). The Petitioner's health care benefits are defined in BCBSM's *Simply Blue Group Benefit Certificate*. The Director notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. The Director received BCBSM's response on January 13, 2015.

This case presents an issue 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

In preparation for a routine physical in March 2014, the Petitioner's doctor, in ██████████ ordered laboratory tests. Because the Petitioner was in Michigan, he went to ██████████ in ██████████ Michigan. This laboratory participates with BCBSM. There are a total of five lab charges listed on BCBSM claim #27141334722000 for the ██████████. The ██████████

██████████ invoice lists charges for ten tests and procedures. In both cases, the amount charged for these services totaled \$581.68.

BCBSM approved \$76.36 in coverage and applied \$58.80 to the Petitioner's deductible. BCBSM concluded that its own payment obligation was \$17.56.

The Petitioner appealed BCBSM's decision through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated October 23, 2014, affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did BCBSM correctly process the claim for the Petitioner's lab work?

IV. ANALYSIS

BCBSM's Argument

In its final adverse determination, BCBSM wrote:

After review, I confirmed that the claims processed appropriately. Because the provider does not participate with their local BCBS plan, our maximum allowance was paid. Therefore, additional payment is not available and you remain liable for the deductible (\$58.80) and balance (\$505.32).

You are covered under the *Simply Blue Group Benefit Certificate*. As explained in **Section 4: Coverage for Physician and Other Professional Provider Services** (Page 4.31), if the nonpanel (out-of-network) provider is nonparticipating, you will need to pay most of the charges yourself. Your bill could be substantial. Additionally, page 4.35 under the subsection *Subscriber Liability Calculation*, when covered services are provided out of our service area by non-participating providers, the amount you pay for such services will generally be based on either the Host plan nonparticipating provider local payment or the pricing arrangement required by applicable state law. In these situations, you may be liable for the difference between the amounts that the nonparticipating provider bills and the payment we make for the covered services.

I confirmed that ██████████ is a nonparticipating provider with the Blue Cross Blue Shield of Florida; therefore, you remain liable for the contracted deductible (299.76) [sic] and the amount in excess of the BCBS approved amount (\$505.32). While I understand your concerns, BCBSM must administrate your benefits in accordance with the terms of your coverage. The balance remains an issue between you and the provider.

Petitioner's Argument

In his external review request, the Petitioner wrote:

I am a [REDACTED] resident currently working in Michigan on a temporary basis. This insurance through BCBSM was provided by my Michigan employer.

For an upcoming annual physical, my doctor back home [REDACTED] requested some lab work be achieved at [REDACTED]. I found a [REDACTED] located in [REDACTED] Michigan to perform this service. I was told they were "In-Network" for BCBSM.

As I later found out... apparently there is some "policy" at BCBSM that the lab work should be done in the same state as the physician's location, to be considered "In-Network".

Director's Review

In processing this claim, BCBSM has erroneously assumed that, because the Michigan [REDACTED] lab does not participate with the Florida Blue Cross Blue Shield plan, the claim should be processed as an out-of-network claim. The consequence of this assumption is that the Petitioner would be billed by [REDACTED] for \$505.32 – that portion of its charge not covered by BCBSM's payment (\$17.56) and the Petitioner's deductible (\$58.80). Participating providers are prohibited by their BCBSM contract from balance-billing BCBSM members.

The Petitioner's coverage is issued by BCBSM to a Michigan employer, [REDACTED]. [REDACTED], Michigan is a BCBSM participating provider. Because [REDACTED] is a BCBSM-participating provider, BCBSM is obligated to protect the Petitioner from balance billing by [REDACTED].

There is an additional error in BCBSM's processing of this claim. The explanation of benefits form shows that BCBSM imposed a cost sharing requirement of \$12.79 on test 80061(lipid panel). This test is listed on BCBSM's "Alert for health care professionals and facilities," issued January 3, 2011, as a preventive service for which cost sharing may not be imposed.

The Director finds that BCBSM incorrectly processed the Petitioner's claim for his March 18, 2014 laboratory services.

V. ORDER

The Director reverses BCBSM's final adverse determination of October 23, 2014.

BCBSM shall immediately reprocess claim #27141334722000 as an in-network claim. Further, BCBSM shall ensure that the claim is processed without cost sharing for any test which constitutes a preventive service exempt from cost sharing according to its "Alert for health care professionals and facilities." BCBSM 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 its implementation the Department of Insurance and Financial Services, Health Plans Division, toll free 877-999-6442.

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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director