STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of Insurance and Financial Services

In the matter of:

[redacted]
Petitioner

v **File No. 145549-001**

Blue Cross Blue Shield of Michigan
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On December 29, 2014 [redacted], authorized representative of her daughter [redacted] (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 Director accepted the request on January 7, 2014.

The Petitioner receives health care benefits through a group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Director notified BCBSM of the external review request and asked for the information used to make its final adverse determination. BCBSM provided its response on January 15, 2014.

The issue in this external review can be decided by a contractual analysis. 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

The Petitioner's benefits are defined in BCBSM's *Community Blue Group Benefit Certificate SG* (the certificate). The copayments for the Petitioner's benefit plan are established in *Rider CB $500 SG* (the rider).

The Petitioner received inpatient medical care at [redacted] (the hospital) on September 21, 2014 for an emergency appendectomy. The amount charged by the hospital was $13,528.04. BCBSM approved $8,252.10. BCBSM applied $878.38 to the

Petitioner's deductible and paid the hospital $7,373.72. The Petitioner is now being billed $6,154.32 (the difference between the hospital's charge and BCBSM's payment).

The Petitioner appealed BCBSM's amount paid through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated November 26, 2014, affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. Issue

Is BCBSM required to pay for any additional amount for the Petitioner's September 21, 2014 care?

IV. Analysis

BCBSM's Argument

In its final adverse determination BCBSM stated that the claim was processed correctly because:

> the provider is nonparticipating and you are required to pay a deductible for covered services provided by nonparticipating (out-of-network) providers....
>
> You are covered by the *Community Blue Group Benefits Certificate SG* and *Rider CB-$500 SG Community Blue Cost Sharing Requirements*. That *Rider* amends **Section 2: What You Must Pay** of the *Certificate* to reflect the following:
>
> > Deductible Requirements
> >
> > Out-of- Network Providers
> >
> > You are required to pay the following deductibles each calendar year for covered services provided by out-of-network providers:
> >
> > - $1,000 for one member
> > - $2,000 for the family
>
> Page 11 of **Section 2: What You Must Pay** of the *Certificate* explains, you will not be required to pay an out-of-network deductible for covered out-of-network services when
>
> - You receive services for the exam and treatment of a medical emergency or accidental injury in the outpatient department of a hospital, urgent care or physician's office
> - You receive services from a provider for which there is no PPO network
> - You receive services from an out-of-network provider in a geographic area of Michigan deemed a "low access area" by BCBSM.

> The inpatient medical care [Petitioner] received does not fall under any of the above referenced criteria for waiver of the out-of-network deductible. Prior to September 21, 2014 your out-of-network deductible requirement had not been met. Thus, the deductible applied appropriately to the services. Therefore, [Petitioner] remains liable for the out-of-network deductible amount ($878.38).
>
> The services in question were reported by [redacted] This provider does not participate with Blue Cross and Blue Shield and is a nonparticipating provider. As a nonparticipating provider, [redacted] is also an out-of-network provider.
>
> Page 156 of **Section 7: Definitions** of the *Certificate* explains, a nonparticipating hospital has not signed a participating agreement with BCBSM to accept our approved amount as payment in full. Page 157 of the same section of the *Certificate* explains, out-of-network providers are hospitals, physicians and other licensed facilities or health care professionals who have not signed an agreement to provide services under the PPO program. As a result, [redacted] pay bill [Petitioner] the difference between our allowed amount and its charges ($5,275.94).
>
> In the appeal letter you asked for additional payment for [Petitioner's] inpatient medical care. As explained on page 120 **Section 4: How Providers Are Paid** of the *Certificate*, if the provider is nonparticipating, you will need to pay most of the charges yourself. Your bill could be substantial because BCBSM coverage at nonparticipating hospital is limited to services needed to treat accidental injury or medical emergency. You will also be responsible for the difference between our approved amount and the amount charged by the nonparticipating provider. This difference is in addition to the deductible, copayments and coinsurance required for the services rendered by out-of-network providers.
>
> The services received were covered and paid at the out-of-network benefit level. This is the maximum payment allowed for the services. Our reimbursement in the amount of $7,373.72 was issued to the provider on October 2, 2014. Thus, no additional payment is warranted for the services.

Petitioner's Argument

In her request for an external review, the Petitioner's mother wrote that her daughter:

> presented her insurance card, was not told hospital was out of network. She did not have the option of seeking an in network facility because she did not know it was an issue and, in addition, this was an emergency situation. Due to both points, we are asking for additional payment on this account even to the point of being treated as an in network provider.

Director's Review

The coverage provisions relevant to the Petitioner's treatment are accurately described in BCBSM's final adverse determination, quoted above. Based on these coverage provisions, BCBSM paid its approved amount, after application of the Petitioner's deductible. Because the hospital is a nonparticipating provider, it has not signed an agreement to accept BCBSM's approved amount as payment in full and may bill the difference between BCBSM's payment and the provider's submitted charges.

The Director finds that BCBSM processed the Petitioner's claims in a manner consistent with the terms of the certificate and rider.

The Petitioner says she was not told the hospital was out-of-network and this was an emergency situation, therefore, BCBSM should provide additional reimbursement. However, under the Patient's Right to Independent Review Act, the Director can only determine if BCBSM properly administered the health care benefits under the terms and conditions of the certificate and any applicable rider. The Director does not have the authority to require BCBSM to provide additional coverage because the Petitioner was not aware of the network status of the hospital or did not have a choice of hospitals.

V. ORDER

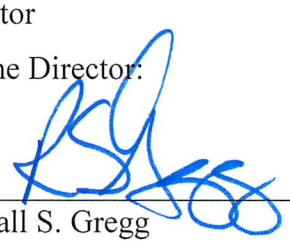
BCBSM's final adverse determination of November 26, 2014 is upheld. BCBSM is not required waive the Petitioner's non-network deductible or pay any additional amount for her care.

This is a final decision of an administrative agency. 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 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