

**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. 145633-001-SF**

██████████, **Plan Sponsor**

**and**

**Blue Cross Blue Shield of Michigan, Plan Administrator**  
**Respondents**

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Issued and entered  
this 4<sup>th</sup> day of February 2015  
by **Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On January 6, 2015, ██████████, on behalf of her daughter, ██████████ (Petitioner), filed a request for external review with the Department of Insurance and Financial Services, appealing a claim denial issued by Blue Cross and Blue Shield of Michigan (BCBSM), the administrator of the Petitioner's health benefit plan which is sponsored by the State of Michigan.

The request for external review was filed under Public Act No. 495 of 2006, (Act 495) MCL 550.1951 *et seq.* Act 495 requires the Director to provide external reviews to a person covered by a self-funded health plan that is established or maintained by a state or local unit of government. The Director's review is performed "as though that person were a covered person under the Patient's Right to Independent Review Act" (MCL 550.1952). The Petitioner's health benefit plan is such a governmental self-funded plan. The plan's benefits are described in the ██████████ ██████████ ██████████ health plan *Benefit Guide*.

On December 11, 2014, after a preliminary review of the information submitted, the Director accepted the Petitioner's request. The Director notified BCBSM of the appeal and asked BCBSM to provide the information used to make its final adverse determination. BCBSM furnished its response on January 23, 2015.

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

On August 15, 2014, at the request of her pediatrician, the Petitioner had two moles on her cheek removed and biopsied. The total charge was \$890.00. The procedure was performed by [REDACTED] who is not a BCBSM participating provider.

BCBSM denied coverage, ruling that the treatment is not covered when performed by an oral surgeon. The Petitioner appealed the denial through the plan's internal grievance process. At the conclusion of its internal review process, on December 17, 2014, BCBSM issued a final adverse determination dated upholding its decision. The Petitioner now seeks a review of that adverse determination from the Director.

## III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's August 15, 2014 medical care?

## IV. ANALYSIS

### Respondents' Argument

In its final adverse determination, BCBSM wrote:

Your family is covered under the *State of Michigan PPO Health Plan*. As indicated on Page 36 of *Your Benefit Guide*, nonparticipating providers are providers who are in the PPO network and do not participate in BCBSM's Traditional plan. If you receive services from a nonparticipating provider, in addition to the out-of-network deductible and coinsurance, you may also be responsible for any charge above the BCBSM's approved amount. That is because providers who do not participate with BCBSM may choose not to accept our approved amount as payment in full for covered services. BCBSM will reimburse you based on our medical policy guidelines for payment.

Additionally, the BCBSM's *Benefit Package Report*, which houses procedure-specific benefit information for your group coverage, explains that procedure codes 11100 (biopsy of skin; single lesion) and 11101 (biopsy of skin; additional lesion) are not a covered when performed by an Oral Surgeon.

I confirmed the provider, [REDACTED], is an Oral Surgeon and nonparticipating provider with BCBSM....The reported biopsy surgery and

related services are not a payable to an Oral Surgeon. Therefore, payment cannot be approved and you remain responsible for the charge (\$890.00).

Petitioner's Argument

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

On August 15, 2014, my daughter, [the Petitioner], had 2 moles removed at the [REDACTED] [REDACTED] [REDACTED] [REDACTED]. We had prior experience with this office with my son and felt comfortable with this doctor. [REDACTED] [REDACTED] pediatrician provided a referral to this office for the removal of the moles. It is something we wanted done prior to the start of the school year.

[BCBSM] refused to pay for any part of the procedure claiming that this procedure is not payable to an oral surgeon....

I feel confident [REDACTED] was qualified to perform this procedure. I do not feel that the insurance company should be able to dictate my choice of a medical professional.

A simple web search on the State of Michigan Licensing and Regulations website shows this information for [REDACTED]:

[REDACTED]	Dentistry	Dentist	2901019512
	Dentistry	Oral Surgeon	2901019512
	Medicine	Medical Doctor	4301106347

Director's Review

The *Benefit Guide* (page 21) covers surgical services from a nonparticipating provider subject to the deductible plus the difference between the BCBSM approved amount and the provider's charge.

The *Benefit Guide* (page 10) defines nonparticipating providers and describes the coverage provided when nonparticipating providers are used:

Nonparticipating providers are providers who are not in the PPO network and do not participate in BCBSM's Traditional plan. If you receive services from a nonparticipating provider, in addition to the out-of-network deductible and coinsurance, you may also be responsible for any charge above BCBSM's approved amount. That is because providers who do not participate with the BCBSM may choose not to accept our approved amount as payment in full for covered services. You may also be required to file your own claim.

When you use nonparticipating providers, we will send you our approved amount, less the out-of-network deductible and coinsurance. You are responsible for paying the provider. Some services, such as your preventive care services, are not covered when you use nonparticipating providers.

BCBSM denied coverage, ruling that the claim was submitted by an oral surgeon. According to BCBSM, biopsy surgery and any related services are not covered benefits when provided by an oral surgeon.

While [REDACTED] is a dentist (DDS) and an oral surgeon, he is also a licensed medical doctor (MD). The *Benefit Guide* does not exclude coverage for surgery performed by an MD. For that reason, the medical care the Petitioner received from [REDACTED] on August 15, 2014 is a covered benefit.

#### V. ORDER

The Director reverses BCBSM's December 17, 2014 final adverse determination. As required by section 1911(17) of the Patient's Right to Independent Review Act, MCL 550.1911(17), BCBSM shall immediately approve coverage for the Petitioner's August 15, 2014 medical care, subject to the applicable cost sharing requirements. 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 to the Department of Insurance and Financial Services, Health Care Appeals Section, toll free at (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 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. 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