

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. 145957-001

Blue Cross Blue Shield of Michigan,

Respondent.

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Issued and entered  
this 17<sup>th</sup> day of February 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On January 23, 2015, ██████████, on behalf of her minor daughter ██████████ (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 30, 2015.

The Petitioner receives health care benefits through a group plan from the Michigan Education Special Services Association (MESSA) that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM).<sup>2</sup> The Director notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. BCBSM provided its response on February 10, 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**

The Petitioner's health care benefits are defined in the booklet *MESSA Choices/Choices*

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<sup>1</sup> ██████████.

<sup>2</sup> MESSA and BCBSM jointly administer the plan but BCBSM is the statutory respondent under the Patient's Right to Independent Review Act. See MCL 550.1903(s) and 550.1907.

*II Group Insurance for School Employees*<sup>3</sup> (the benefit booklet).

On July 28, 2014, the Petitioner began vision therapy to “improve convergence insufficiency, reduce headaches, treat diplopia, and dizziness,” according to her mother. The vision therapist was supervised by [REDACTED], a licensed optometrist.

In an August 8, 2014, letter, MESSA denied a request for preauthorization of the vision therapy, telling the Petitioner’s mother that “the vision therapist does not meet MESSA's definition of a qualified provider. Therefore, no benefits are available for the vision therapy requested.” The therapy continued at least through September 26, 2014, paid by the Petitioner.

When the Petitioner sought reimbursement for the vision therapy in September 2014, MESSA denied the claims, saying in an October 22, 2014, letter that “vision therapists do not meet our criteria for coverage; therefore, we are unable to approve benefits.” The Petitioner subsequently appealed through BCBSM’s internal grievance process. At the conclusion of that process, BCBSM issued the plan’s final adverse determination dated November 25, 2014, upholding the denial of coverage.

The Petitioner now seeks a review of that adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner’s vision therapy?

### IV. ANALYSIS

#### Petitioner’s Argument

The request for external review included this statement from the Petitioner’s mother:

My daughter suffered a concussion in early May [2014] and was seen in [REDACTED] [REDACTED] . . . office on June 20 for an initial eval[uation]. Prior to this appointment I called MESSA to see if he was a covered provider and was told yes. We returned July 2 for a vision therapy test, which is an out of pocket cost. Once again, I was told by MESSA that vision therapy was a covered benefit. . . . We began our first session on July 28 and are still continuing. They expect her to be finished with treatment sometime in February [2015]. All sessions are conducted by a certified vision therapist and [REDACTED]. I have sent in numerous requests for coverage. I feel I've been told the wrong information on 3 different occasions by MESSA phone representatives. We began treatment because we were told this was a covered expense and [REDACTED] was a qualified provider. There is not another facility with a qualified orthoptist in 50 miles that provides this type of

vision therapy. My daughter does meet the criteria for vision therapy. . . . This is very misleading when there are no facilities that provide this therapy by a qualified orthoptist. We have checked over 10 different facilities in Michigan. So MESSA claims it is covered, but someone who you authorize to do the therapy does not even exist, yet a CERTIFIED VISION THERAPIST as well as an OPTOMETRIST is not authorized? What are we to do? Please reconsider. This therapy is vital to my daughter feeling and function normal. We cannot afford the out of pocket expenses.

### BCBSM's Argument

In its final adverse determination, BCBSM told the Petitioner's mother:

This letter is in response to your appeal and will inform you of the outcome of your managerial level conference conducted on November 5, 2014. The purpose of the conference was to discuss the denial of payment for [the Petitioner's] vision therapy services (procedure code 92605) rendered by [REDACTED]. After review, our denial is maintained: an optometrist is not a payable provider type for vision therapy services under your plan.

\* \* \*

A board-certified M.D. in Internal Medicine and Endocrinology reviewed your claim, your appeal, and your health care plan benefits for Blue Cross Blue Shield of Michigan (BCBSM). Based on the review, the following was determined:

Member has convergence insufficiency and meets the medical criteria for vision therapy.

However, [REDACTED] is an Optometrist, not an Orthoptist. Because vision therapy is only payable under your policy when performed by an Orthoptist, our denial of payment must be maintained and you remain liable for the charges to [REDACTED].

### Director's Review

In a review under the Patient's Right to Independent Review Act, the Director only determines if a health plan has improperly denied coverage for a benefit under the terms and conditions of the plan or under state law. The Director's decision cannot be based on allegations that incomplete or incorrect information was given about the criteria for coverage of a treatment or service, or the availability of a provider. In this case, the Director concludes that BCBSM correctly denied coverage for the Petitioner's vision therapy.

The Petitioner's plan covers therapy services, including vision therapy. The benefit booklet (pp. 51, 52) says:

The following therapy services are paid as indicated below if obtained in the outpatient department of a hospital, doctor's office, freestanding facility or by an independent physical therapist. Any therapy must be medically necessary and ordered by, and performed under, the supervision or direction of a legally qualified physician except where noted.

\* \* \*

### **Vision Therapy**

Services must be performed by a qualified orthoptist to correct defective visual habits. . . .

There is nothing in the record that establishes that the vision therapy was provided by a "qualified orthoptist." The Petitioner's mother said that the therapy was "conducted by an optometrist in conjunction with a certified vision therapist," not an orthoptist. BCBSM, in its final adverse determination, noted that [REDACTED] is an optometrist, not an orthoptist, and that assertion is uncontradicted.<sup>4</sup>

The Director concludes that the Petitioner's vision therapy was not provided by an orthoptist. Therefore, the Director finds that the vision therapy was not a covered benefit.

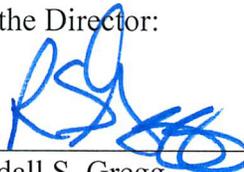
### **V. ORDER**

The Director upholds BCBSM's final adverse determination of November 25, 2014.

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. MCL550.1915 (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:



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Randall S. Gregg  
Special Deputy Director

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<sup>4</sup> The State of Michigan does not license or certify orthoptists. While neither MESSA nor BCBSM explained what specific criteria is used to determine if an orthoptist is "qualified," there is nothing in the record that would allow a finding that [REDACTED] is an orthoptist.