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. 145990-001**

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 19th day of February 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On January 26, 2015, , authorized representative of her husband (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 February 3, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner is enrolled for health care coverage through a group plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Director notified BCBSM of the external review request and asked for the information it used to make its adverse determination. BCBSM submitted the material on February 11, 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 BCBSM's *Simply Blue HRA Group Benefits Certificate LG*[1] (the certificate).

On October 15, 2014, the Petitioner, a type 1 diabetic, obtained blood glucose test strips from MiniMed Distribution Corporation, a subsidiary of Medtronic, Inc. The charge for the

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1 Form 779E, approved 08/14

strips was $572.00. BCBSM denied coverage, saying the Petitioner had reordered test strips too soon.

The Petitioner appealed the denial through BCBSM's internal grievance process.[2] At the conclusion of that process, BCBSM issued a final adverse determination dated January 2, 2015,[3] affirming its denial. The Petitioner now seeks a review of that adverse determination from the Director.

III. Issue

Did BCBSM correctly deny coverage for the Petitioner's blood glucose test strips?

IV. Analysis

Petitioner's Argument

In the request for external review, the Petitioner's authorized representative said:

> There was a communication problem between Medtronic and BCBSM. I received the test strips too early (8 days) and they were not covered. Medtronic should [have] checked with my insurance when I was eligible. My husband's deductible was met so they should have been covered. Now because of this situation I have a bill for 572.00 and while waiting on this payment or answer I didn't want to order more test strips so I again missed the time allotment for more strips while the deductible was met. Which was the end of the year. This was a communication problem between Medtronic and BCBSM. I should not have to pay. I did make one payment to Medtronic for $190 so they wouldn't put a hold on my account. My husband also gets his insulin pump supplies from them.

In an earlier undated letter to BCBSM, the Petitioner's authorized representative wrote:

> It was for . . . test strips that I ordered from Medtronic, (MiniMed Distribution). We previously had been ordering our test strips from Airway Oxygen; however they no longer carry test strips. I was referred by BCBS to several other companies, in network, that carried test strips (one of which was Medtronic). Our claim was denied because we ordered them too soon (less than 10 days before allowed). It is the job of Medtronic to check with our insurance to see when we are eligible for reordering. They did not do this which was the direct cause of our claim being denied. The denial should have never happened since we have met our deductible and have not truly ordered more than is needed when reviewed on an annual basis. We easily could have waited the extra 10 days to meet the required wait time. Medtronic states it is not their fault, yet when I inquired at BCBS, they could see

2 Payment of lodging expenses during the time the Petitioner had a kidney transplant was also an issue in the internal grievance process but the Petitioner did not raise that issue in his request for an external review.
3 The final adverse determination was erroneously dated January 2, 2014.

> where Medtronic never inquired about the date of the last prescription refill. Our next order will be in January and we will be paying ourselves because our deductible will be not met. This would have been the last order this year to be paid!

BCBSM's Argument

In its final adverse determination, a BCBSM representative told the Petitioner's authorized representative:

> After review, I have determined that payment for [the claim] denied correctly. As a result, you remain responsible for the . . . $572.00 charge from MiniMed Distribution Corp. . . .
>
> * * *
>
> . . . I am unable to approve payment for the blood glucose tests strips purchased on October 15, 2014. . . . [Y]our husband's *Certificate* allows for payment of test strips for blood glucose meters. However, according to the *Benefit Package Report* for his group, an online tool used by Blue Cross Blue Shield of Michigan to store group specific benefit information, his plan only covers 12 units of test strips per 85 days for patients with Type I Diabetes. Your husband purchased 12 units of test strips on July 30, 2014. He was not eligible to purchase more strips until October 23, 2014. Because 85 days had not passed between the purchases of the strips, I am unable to approve payment.

The BCBSM representative's notes from the managerial-level conference on December 23, 2014, further described the issue:

> We confirmed that the issue is nonpayment of diabetes test strips. I explained that the claim denied because they were refilled too early. The following was discussed:
>
> - The member was getting test strips through Airway Oxygen.
> - Airway Oxygen no longer carries test strips, referred to Medtronic/MiniMed.
> - Medtronic sent the strips 9 days early.
> - Medtronic said it was BCBSM fault, BCBSM said it was Medtronic.
> - The member would have waited the 9 days for the test strips because her deductible had been met.

Director's Review

The certificate (p. 71) covers test strips for glucose monitors when they are medically necessary and prescribed by an MD or DO, but the plan places limits on the number of test strips that may be ordered at any one time. The benefit package report (BPR) for the Petitioner's plan contains specific information about the plan's benefits, including HCPCS code A4253, "blood

glucose test/reagent strips, per 50 strips." The BPR says this about test strips for type 1 diabetics: "Units[4] Allowed Per Individual; per 85 Days Less or equal to 12 Units per 85 Day(s)."

Thus, the plan will cover up to 12 units of test strips in any 85 day period. It is undisputed that the Petitioner ordered 12 units of test strips on July 30, 2014, from Airway Oxygen. Therefore, no test strips would be covered until October 23, 2014. However, the Petitioner ordered test strips on October 15, 2014, eight days too soon.

The Petitioner needed more test strips and also needed a new provider. BCBSM referred him to Medtronic. It is possible that Medtronic was not aware of the Petitioner's prior order history with Airway Oxygen when it filled the order and therefore was not aware that 85 days had not passed since the Petitioner's last order. The Petitioner may have assumed that Medtronic would check with BCBSM before it filled the order. But even though the 85-day period does not appear in the certificate, it was the Petitioner's responsibility to know the conditions of his coverage before placing an order.

The Director finds that BCBSM's denial of coverage for the Petitioner's blood glucose test strips was correct.

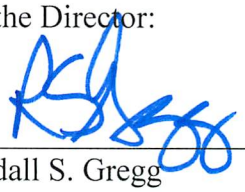
V. ORDER

The Director upholds that part of BCBSM's January 2, 2015, final adverse determination denying coverage for the blood glucose test strips obtained on October 15, 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 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:



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4 A unit apparently contains 50 strips.