

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. 146101-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 24th day of February 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On February 3, 2015, ██████████ (Petitioner) filed a request for external review with the Director of Insurance and Financial Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the request on February 10, 2014.

The Petitioner receives dental care benefits through an individual plan 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 final adverse determination. The Director received BCBSM's response on February 17, 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 dental care benefits are defined in BCBSM's *Blue Dental Individual Market Benefits Certificate*¹ (the certificate). The certificate is amended by *Rider BD-EHB-WP-IBU Blue Dental-Waiting Period*² (the rider).

The Petitioner's dental coverage was effective on January 1, 2014. On June 6, 2014, the Petitioner had an examination, teeth cleaning, and full mouth X-rays at the dentist's office. BCBSM covered the examination and cleaning but denied coverage for the X-rays, saying the service was subject to a six-

¹ BCBSM form no. 962F, state approval 08/13 and federal approval 09/13.

² BCBSM form no. 306G, state approved 08/14 and federal approved 11/14.

month waiting period. The amount in dispute is \$113.00.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination on December 18, 2014, affirming 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 dental X-rays?

IV. ANALYSIS

Petitioner's Argument

The Petitioner's position was explained in a letter written to BCBSM dated November 10, 2014:

. . . I am writing you today to appeal the decision for waiving the waiting period on my dental coverage. I called customer service earlier this year and was informed that I had a six month waiting period for teeth cleaning & x-rays, and that the six month period would be effective on June 1, 2014. After receiving that information, I made an appointment with my dentist . . . for June 6, 2014. At this appointment, x-rays were taken. Much to my dismay, when the bill was sent after my appointment, the office visit was covered but my x-rays were rejected, stating that there is a six month waiting period and the effective date would be July 1 not June 1. You can imagine my frustration after hearing this.

After several phone calls to the dental department . . . I was told to call Customer Service to explain what happened. I spoke to a representative named [REDACTED] who agreed that June 1 should have been the effective date of my six months, and stated that due to the misinformation I was given, suggested that I call to waive the waiting period. After many calls, I was told it was rejected and I needed to write a letter of appeal to the dental department so they could consider waiving the waiting period so that the x-rays could be covered under my insurance.

I certainly would appreciate if someone could look into this for me, and consider waiving the waiting period.

BCBSM's Argument

In its final adverse determination, BCBSM wrote:

Your request for reconsideration of the previous benefits provided for this service has been denied. The Blue Dental PPO Personal policy chosen includes a 6-month waiting period for Class II services. The procedure performed is considered a Class II service. The effective date of your policy is January 1, 2014, which would mean that as of July 1, 2014, your waiting period would be satisfied.

We have also reviewed the call records on file. On January 22, 2014, ██████████ called in and was explained benefits, which included the waiting period information. On February 14, 2014, ██████████ called in and was again advised about the waiting periods that apply to this policy. There was no mention on either call of a specific date that the waiting period would be satisfied. There is no evidence that inaccurate information was provided. This decision was based on a thorough review of our records and the documentation provided.

Director's Review

The rider amended the certificate to add waiting periods “for Class II and Class III benefits for non-pediatric members.” The rider (p. 2) explains what the waiting periods apply to and how they are calculated:

When Your Benefits Begin

Most benefits are available on the effective date of your contract. However, for Class II and Class III services, a waiting period that begins on the effective date of your dental coverage applies as follows:

- A 6-month waiting period for Class II benefits **except for Sealants and Emergency Palliative Treatments**
- A 12-month waiting period for Class III benefits.

This waiting period applies only to non-pediatric members. Class I benefits are not affected by this rider.

NOTE: The waiting period will be satisfied on the last day of the waiting period with benefits becoming effective on the first date following. For example, for a 12-month waiting period, if the contract becomes effective on July 1, 2014, the last date of the waiting period will be June 30, 2015, with benefits becoming active on July 1, 2015.

The X-rays the Petitioner received on June 6, 2014, were coded D0210 (“intraoral - complete series of radiographic images”) which is described as “a radiographic survey of the whole mouth, usually consisting of 14-22 periapical and posterior bitewing images intended to display the crowns and roots of all teeth, periapical areas and alveolar bone.” The X-rays fall into the category of Class II services³ in the certificate (p. 14):

- **Radiographs (X-rays)** of the mouth, teeth, jaw, skull and facial bones
 - Full-mouth series - The series includes bitewings and periapical films taken on the same day

³ X-rays are also included as Class I services (certificate, p. 14) but only those “needed for routine care or to diagnose a specific condition,” not full mouth X-rays.

- Panoramic X-rays - Panoramic X-rays with or without bitewings taken on the same day, are considered full-mouth X-rays

Class II X-ray services are not covered until the end of the six-month waiting period. The Petitioner's coverage was effective on January 1, 2014, so the waiting period extended through June 30, 2014. Therefore, the Director concludes that BCBSM correctly denied coverage for the X-rays on June 6, 2014.

The Petitioner says that BCBSM's customer service representative provided inaccurate information about the waiting period; BCBSM disputes that contention. But even if the Petitioner's allegation is true, the Director has no authority in a review under the Patient's Right to Independent Review Act to amend the certificate because a BCBSM representative conveyed the wrong information. The Director can only determine if benefits were administered according to the terms of the certificate and any relevant state law, and in this case, the Director finds that BCBSM did that.

V. ORDER

The Director upholds Blue Cross Blue Shield of Michigan's December 18, 2014, final adverse determination.

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:



Randall S. Gregg
Special Deputy Director