

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████
Petitioner

v

Blue Cross Blue Shield of Michigan
Respondent

File No. 146104-001

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

ORDER

I. PROCEDURAL BACKGROUND

On February 3, 2015, ██████████, authorized representative of her ██████████ son ██████████ (Petitioner) filed a request with the Director of Insurance and Financial Services for external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On February 10, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits through a group plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Simply Blue Group Benefits Certificate*. 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 17, 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 the Petitioner suffered a traumatic brain injury, respiratory distress and a skull fracture when he was struck by a motorcycle while riding his bicycle. He was taken by air ambulance to ██████████ where he underwent an emergency craniotomy. The air ambulance service was provided by Med-Trans, a Texas-based

medical transport company. Med-Trans does not participate with BCBSM. Med-Trans charged \$29,252.07 for the flight, mileage and related services. BCBSM determined that its approved amount for the transport, mileage and oxygen services was \$7,586.97 (\$5,972.06 for the air transport, \$1,575.20 for the air mileage and \$39.71 for the air oxygen/life supplies). BCBSM issued its payment to the Petitioner's father, the plan subscriber. BCBSM denied coverage for an IV push, a fentanyl citrate injection and a rhythm ECG performed during the transport. Med Transport is billing the subscriber for the balance of \$21,329.01.

The Petitioner's mother appealed BCBSM's payment decision through its internal grievance process. BCBSM held a managerial-level conference and, on December 19, 2014, issued a final adverse determination affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

On February 17, 2015, during the external review process, BCBSM wrote to the Director that it would reverse its denial of coverage the IV push, a fentanyl citrate injection and a rhythm ECG and issue an additional payment to the Petitioner's father for those services. However, in that communication BCBSM affirmed that it had paid its maximum amount for the air ambulance service.

III. ISSUE

Is BCBSM required to pay an additional amount for the Petitioner's air ambulance transport and related services?

IV. ANALYSIS

BCBSM's Argument

In its December 19, 2014 final adverse determination, BCBSM's representative wrote to the Petitioner's mother:

After review, we already approved the maximum benefit available. Our check to you dated October 13, 2014 in the amount of \$7,586.97 represents 100 percent of the approved amount for the air ambulance, mileage and oxygen supplies. No additional payment can be made. If billed, you are responsible to Med-Trans Corporation, a nonparticipating provider, for the remaining balance of \$21,329.01.

[Petitioner] is covered under the Simply Blue Group Benefits Certificate. As explained on page 5.5 under **Professional Ambulance Services**:

We pay our approved amount for ambulance services to transport a patient up to 25 miles. We will pay for a greater distance if the destination is the nearest medical facility capable of treating the patient's condition.

On page 7.2 of the certificate, the term "approved amount" is defined as the lower of the billed charge or our maximum payment level for the covered service.

Participating providers are contracted to accept the approved amount for covered services as payment in full. They do not bill balances other than any contractual deductible and/or copayment that may be required. Med-Trans Corporation does not participate with us and can bill you for the difference between the charges and our approved amount.

This is supported on page 4.31 of the same certificate where it explains that:

If the nonpanel provider is **nonparticipating**, you will need to pay most of the charges yourself. Your bill could be substantial.

NOTE: Because nonparticipating providers often charge more than our maximum payment level, our payment to you may be less than the amount charged by the provider.

Petitioner's Argument

The Petitioner's mother argues that despite the critical and emergency nature of her son's condition, BCBSM has not made a fair and accurate determination of benefits for her son's transport and related services. She therefore believes BCBSM should pay more for the services.

The Petitioner's mother submitted a letter from her son's doctor who wrote that the Petitioner was transported by air ambulance with a right epidural hematoma. According to the doctor, "This condition has a high mortality rate. Patient needed to be operated on as soon as possible. Flight care was necessary for patient to survive."

Director's Review

There is no dispute in this case that air ambulance transport was medically necessary and that the Petitioner met the *Simply Blue* certificate's criteria to receive air ambulance services. The sole issue is how much BCBSM must pay for that service under the terms of the certificate.

The *Simply Blue* certificate provides that BCBSM pays an "approved amount" for covered services. There is nothing in the certificate that requires BCBSM to pay more than its approved amount, even in an emergency or even if there are no participating providers available. The certificate also does not require BCBSM to pay a nonparticipating provider's charge in full under any circumstances.

BCBSM determined that its maximum payment level for the Petitioner's transport, mileage and oxygen services was \$7,586.97. BCBSM paid its full approved amount for the air transport, mileage and oxygen services and is not required to pay any additional amount for these services.

While it is unfortunate that the Petitioner was unable to use a participating provider, BCBSM nevertheless correctly processed the claims for these services under the terms and conditions of the *Simply Blue* certificate.

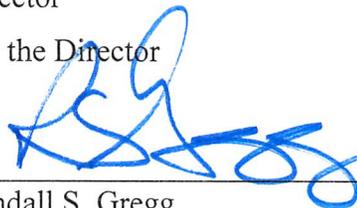
V. ORDER

The Director upholds BCBSM's final adverse determination of December 19, 2014, as amended by its decision to pay an additional amount for the Petitioner's IV push, fentanyl citrate injection, and ECG.

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