

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. 146220-001

Issued and entered
this 25th day of February 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On February 6, 2015, ██████████ authorized representative of ██████████ (Petitioner), filed a complaint with the Department of Insurance and Financial Services. On February 13, 2015 after a preliminary review the Director accepted the request.

The Petitioner receives health care benefits under a plan that is underwritten by BCBSM. The benefits are defined in BCBSM's *Blue Cross Premium Gold Benefits Certificate*. 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 16, 2015.

This case presents an issue of contractual interpretation. 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

From January 1, 2014 to April 8, 2014, the Petitioner received residential substance abuse services at ██████████, a substance abuse treatment facility in ██████████. The amount charged for this care was \$11,080.00. ██████████ is not a member of BCBSM's provider network. The Petitioner requested BCBSM provide coverage for his treatment. BCBSM denied coverage.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, BCBSM issued its final adverse determination dated December 23, 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 residential substance abuse treatment?

IV. ANALYSIS

BCBSM's Argument

In its final adverse determination, BCBSM's representative explained its decision:

After review, I determined that [REDACTED] is a nonparticipating provider and the denial of payment is appropriate....

[Petitioner] is covered under the *Blue Cross Premier Gold Benefits Certificate (Certificate)*. In **Section 3: What BCBSM Pays For under Substance Abuse Treatment Services** (pages 101-102) the *Certificate* states:

- **Inpatient Substance Abuse Treatment Services**

We pay for treatment of substance abuse in a participating hospital when approved by BCBSM.

- **Outpatient and Residential Substance Abuse Treatment**

We pay for treatment of substance abuse in a participating residential or outpatient substance abuse treatment programs....

* * *

– **The services must be approved by BCBSM and provided by a participating substance abuse treatment program**

We do not pay for:

- **Services provided by a nonparticipating hospital, inpatient facility, or outpatient facility**

Under **Section 7: Definitions** (Page 165), the *Certificate* defines a nonparticipating provider as:

Nonparticipating Providers

Physicians and other health care professional, or hospitals and other facilities or programs that have not signed a participating agreement with BCBSM to accept the approved amount as payment in full....

During the managerial-level conference, you stated that the [Petitioner's] family

believed the services would be processed as out-of-network because [REDACTED] provided them a BCBSM provider number. While I appreciate that this caused the family some confusion, a provider can be assigned a provider number without having signed a participating agreement with BCBSM. Our records show that [REDACTED] is not a participating provider.

[T]he *Certificate* specifically precludes payment for substance abuse services when provided by a nonparticipating facility. Because the services received by [Petitioner] were rendered by a nonparticipating provider, we cannot make an exception in his case and payment cannot be approved.

Petitioner's Argument

In a letter to BCBSM, the Petitioner's father wrote:

[Petitioner] has battled a drug problem for a number of years. He was treated at [REDACTED] Hospital a few years ago. This program, although he completed the program, was not successful. After much checking and deliberation, looking at programs all over the United States, [REDACTED] in [REDACTED] (Blue Cross provider 145686230) was selected. The success rate at [REDACTED] is more than double the national average. At this point, [Petitioner] has now been clean and sober for nearly eleven months.

My family believed that since [REDACTED] was not a preferred provider the coverage was 60% rather than 80%. The [REDACTED] charges excluding after care and transitional living was \$11,300.00. These charges have been previously submitted.

In a letter dated January 23, 2014, the Petitioner's representative wrote:

When [Petitioner] was admitted to [REDACTED] he was led to believe that his claim would be covered. [REDACTED] gave him the provider number to submit the claims since they do not bill health insurance companies.

The Petitioner's representative also indicated that communications with BCBSM also led the Petitioner to believe that his care would be covered as an out-of-network claim.

Director's Review

Under the Petitioner's *Premium Gold* certificate of coverage, no benefits are available for care received in a substance abuse treatment facility that does not participate with BCBSM. [REDACTED] is a nonparticipating substance abuse facility because it has not signed a participation agreement with BCBSM to accept the BCBSM's approved amount as payment in full. Because

██████████ is not a participating substance abuse treatment program, no coverage is available for the Petitioner's treatment there.

The Petitioner's representative argues that the Petitioner was led to believe by the facility and BCBSM that BCBSM would cover his care at the nonparticipating rate. However, there is no "nonparticipating rate" for treatment at a nonparticipating residential substance abuse treatment facility. Further, under the Patient's Right to Independent Review Act the Director's role is limited to determining whether an insurer has properly administered health care benefits according to the terms of the applicable insurance contract and any relevant state law. The Director has no authority to amend the terms of an insurance policy based on statements or alleged misstatements made by a provider or employees of the insurer.

The Director finds that BCBSM's denial of coverage for Petitioner's substance abuse treatment at ██████████ is consistent with the terms of the Petitioner's certificate of coverage.

V. ORDER

The Director upholds BCBSM's final adverse determination of December 23, 2014. BCBSM is not required to provide coverage for the Petitioner's substance abuse treatment at Dawn Farm.

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:



Randall S. Gregg
Special Deputy Director