

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. 146347-001

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Issued and entered  
this 18<sup>th</sup> day of March 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On February 25, 2015, ██████████, on behalf of her infant son ██████████ (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 March 3, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner has health care coverage as a dependent under his mother's employer group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Community Blue Group Benefits Certificate SG*. 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 March 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**

On August 18, 2014, the Petitioner was born by cesarean delivery at a Blue Cross Blue Shield participating hospital in ██████████. During delivery the obstetrician enlisted the assistance of ██████████, a nurse practitioner. ██████████ does not participate with BCBSM or the local Blue Cross Blue Shield plan in ██████████. ██████████ charged \$440.00. BCBSM

provided coverage for [REDACTED] services at the in-network level, approving \$49.11. After applying a 20 percent coinsurance charge of \$9.82, BCBSM paid the Petitioner \$39.29. This left the Petitioner responsible for the balance of [REDACTED] charge – \$400.71.

The Petitioner appealed BCBSM's payment decision through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated January 30, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly process the nurse practitioner's claim?

### IV. ANALYSIS

#### Petitioner's Argument

In the request for an external review, the Petitioner's mother stated that BCBSM should pay the full amount of [REDACTED] charge. The Petitioner's mother stated that they had not approved [REDACTED] participation in the birth and did not know she had participated until after the delivery was complete. She believes that, while [REDACTED] may not participate with Blue Cross Blue Shield, her group, Pediatrix does participate. She says they were careful to select a Blue Cross Blue Shield participating hospital and obstetrician and, therefore, BCBSM should pay for [REDACTED] services.

#### BCBSM's Argument

In its final adverse determination, BCBSM's representative wrote:

[Petitioner] is covered under the *Community Blue Group Benefits Certificate SG (Certificate)*. As explained on Page 119 of **Section 4: How Providers Are Paid:**

If the out-of-network provider is **nonparticipating**, you will need to pay most of the charges yourself. Your bill could be substantial. After paying the provider, you should submit a claim to us. If we approve the claim, we will send payment to the subscriber.

**Note:** Because nonparticipating providers often charge more than our approved amount, our payment to you may be less than the amount charged by the provider.

Page 156 of the *Certificate* defines nonparticipating providers as physicians and other health care professionals, or hospitals and other facilities or programs that have not

signed a participation agreement with BCBSM to accept the approved amount as payment in full.

Further, Page 124 of **Section 4: How Providers Are Paid** explains how providers are paid when members receive services outside of the state of Michigan:

Subscriber Liability Calculation

When covered services are provided outside of our service area by nonparticipating providers, the amount you pay for such services will generally be based on either the Host Plan's nonparticipating provider local payment or the pricing arrangements required by applicable state law. In these situations, you may be liable for the difference between the amount that the nonparticipating provider bills and the payment we make for the covered services as set forth in this paragraph.

I confirmed that. . . [REDACTED] is a nonparticipating professional provider. As stated above, nonparticipating providers are not required to accept our approved amount as payment in full. Therefore, you remain responsible for the outstanding balance of \$400.71.

In your appeal letter, you expressed concern that a nonparticipating provider was asked to be present for your elective c-section after you made efforts to ensure that only participating providers were present. Because we understand that you did not select this provider during your delivery, we processed this claim at our in-network benefit level and applied this plan's 20 percent in-network coinsurance (\$9.82) as explained on Page 9 of the *Certificate*.

While I understand you would like additional payment approved for these services, Blue Cross Blue Shield of Michigan (BCBSM) must administer your son's benefits in accordance with the terms of his coverage. The balance owed remains an issue between you and the provider.

Director's Review

BCBSM pays its approved amount to both participating and nonparticipating providers. However, only participating providers have agreed to accept BCBSM's approved amount as payment in full for services. Nonparticipating providers may bill for the difference between their charges and BCBSM's approved amount, which was apparently the case here.

In this case, BCBSM covered [REDACTED] services at the in-network level: it only assessed the in-network coinsurance of 20 percent rather than the 40 percent out-of-network coinsurance in acknowledgement of the fact that Petitioner's parents had no control over [REDACTED] involvement in Petitioner's delivery.

While it is understandable the Petitioner is disappointed with BCBSM's payment, there is nothing in the certificate that requires BCBSM to pay more than its approved amount. The Director finds that BCBSM's claim processing for [REDACTED] services was consistent with the terms and conditions of the *Community Blue* certificate.

**V. ORDER**

The Director upholds BCBSM's January 30, 2015 final adverse determination.

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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Randall S. Gregg  
Special Deputy Director