

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. 146353-001-SF

██████████, Plan Sponsor  
and  
Blue Cross Blue Shield of Michigan, Plan Administrator  
Respondents

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Issued and entered  
this 10<sup>th</sup> day of March 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On February 17, 2015, ██████████ (Petitioner) filed a request for external review with the Department of Insurance and Financial Services, appealing a claim denial issued by Blue Cross Blue Shield of Michigan (BCBSM), the administrator of the Petitioner's health benefit plan which is sponsored by Wayne County Retirement. The Wayne County plan provides benefits as the Petitioner's secondary coverage. The Petitioner's primary coverage is provided through Medicare.

The Petitioner's request for external review was filed under Public Act No. 495 of 2006, (Act 495) MCL 550.1951 *et seq.* Act 495 requires the Director to provide external reviews to a person covered by a self-funded health plan that is established or maintained by a state or local unit of government. The Director's review is performed "as though that person were a covered person under the Patient's Right to Independent Review Act." (MCL 550.1952) The Petitioner's ██████████ County Retirement health benefit plan is such a governmental self-funded plan. The plan's benefits are defined in BCBSM's *Professional Services Group Benefit Certificate*.

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**

From January 21, 2014 through August 21, 2014, the Petitioner rented oxygen and breathing equipment from ██████████, a medical equipment supplier. The charge for the equipment was submitted to Medicare as the Petitioner's primary insurer.

Medicare approved coverage and assessed the Petitioner copayment and deductible charges appropriate to Petitioner's coverage. The Petitioner submitted a claim to BCBSM in order to recover the deductible and copayment charges under her secondary coverage. BCBSM denied coverage.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, BCBSM affirmed its denial in a final determination dated December 18, 2014. The Petitioner believes she should receive payment under her [REDACTED] Retirement plan and now seeks a review of BCBSM's adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's rental of oxygen and breathing equipment?

### IV. ANALYSIS

In its final adverse determination, BCBSM wrote to the Petitioner:

You are covered under the *Professional Services Group Benefit Certificate*. Services that are not payable are listed on page 2.28 of the certificate in **Section 2: Coverage for Physician and Other Professional Provider Services**. "Drugs, medical appliances, materials or supplies" are included in the list of services that are not payable.

\* \* \*

The reported services do not meet this criterion. Oxygen and breathing equipment are classified as medical equipment and are not a benefit of your policy.

The *Professional Services Group Benefit Certificate*, on page 3.1, provides that coverage is excluded for any services not listed in the certificate as being payable. The list of payable services appears on page 2.2 of the certificate:

Surgery, Presurgical Consultations, Anesthetics, Technical Surgical Assistance, Cardiac Rehabilitation, Obstetrics, Newborn Examination, Inpatient Medical Care, Inpatient Mental Health Care, Inpatient Consultations, Emergency Treatment, Emergency Ambulance Service, Chemotherapy, End Stage Renal Disease (ESRD), Therapeutic Radiology, Diagnostic Radiology, Diagnostic Services, Diagnostic Laboratory and Pathology Services, Optometrist Services, Audiologist Services, Outpatient Diabetes Management Program, BlueHealthConnection Program, Integrated Case and Disease Management, Specialty Pharmaceuticals, Certified Nurse Midwife Services, Certified Nurse Practitioner Services, Injectable Drugs, Special Foods for Metabolic Diseases, Pain Management

The oxygen and breathing devices are medical equipment. Based on the *Professional Services Group Benefit Certificate* provisions quoted above, medical equipment is not a covered benefit. Consequently, the Director finds that BCBSM's denial of coverage for the Petitioner's rental of oxygen and breathing equipment is consistent with the terms of the certificate.

Note: In the final adverse determination, BCBSM stated that the Petitioner would be responsible for payment of \$675.35 in non-covered charges for the breathing equipment. In a subsequent communication to the Director, BCBSM stated that it had reviewed the Petitioner's Medicare claims for the equipment and had concluded that there were duplicative claims and that the Petitioner was only responsible for \$301.91 (\$147.00 for the Medicare deductible and \$154.91 for the Medicare coinsurance). BCBSM's analysis involves determining cost sharing provision in Petitioner's Medicare coverage. Medicare had not participated in this review, so any conclusions about duplicative claims and resulting financial obligations are not binding on Medicare. The Director has no authority to review Medicare claims handling. Consequently, the Director cannot adopt or reject BCBSM's view of the Petitioner's Medicare coverage and its coinsurance requirements. Any determination of the Petitioner's cost-sharing liability for Medicare coverage must be addressed by Medicare, not through the Director's review under the Patient's Right to Independent Review Act.

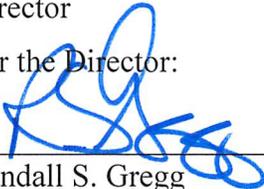
#### V. ORDER

The Director upholds BCBSM's final adverse determination of December 18, 2014. The Respondents, BCBSM and [REDACTED], are not required to provide coverage for the Petitioner's rental of oxygen and breathing equipment.

This is a final decision of an administrative agency. Any person aggrieved by this order may seek judicial review no later than sixty days from the date of this order in the circuit court for the county where the covered person resides or 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:

  
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Randall S. Gregg  
Special Deputy Director