

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. 146661-001

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 27th day of March 2015
by Joseph Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 5, 2015, ██████████, on behalf of her minor daughter ██████████¹ (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.* After a preliminary review of the material submitted, the Director accepted the request on March 12, 2015.

The Petitioner receives health care benefits through the Michigan Education Special Services Association (MESSA) from a group plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Director immediately 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 March 18, 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

The Petitioner's health care benefits are defined in a booklet called *MESSA Choices/Choices II Group Insurance for School Employees*² (the booklet).

As part of a course of extensive dental treatment, the Petitioner required braces to make room for a

¹ Born January 15, 2003.

² Version 01/14.

transplanted tooth. The appliance was placed on September 30, 2014 by [REDACTED].

The Petitioner's mother requested that the service be covered under her MESSA medical and surgical plan. BCBSM denied the request, saying that the service was dental in nature and therefore not a covered benefit according to the booklet.

The Petitioner's mother appealed the denial through BCBSM's internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination dated January 28, 2015, affirming its decision. The Petitioner's mother now seeks a review of that adverse determination from the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's orthodontic services?

IV. ANALYSIS

Petitioner's Argument

On the request for external review form the Petitioner's mother wrote:

Coverage of braces due to medical necessity and not at all for cosmetic reasons. Needed to make room for surgical transplant/holding in place after. . . . I am requesting the balance of braces, after dental coverage, to be covered.

In an earlier letter to MESSA dated October 7, 2014, the Petitioner's mother explained her daughter's condition:

My [REDACTED] year old daughter . . . is currently undergoing dental care by multiple doctors. This past summer, we went for her regular dental cleaning and check-up. At that point we discovered that her bottom left adult canine tooth is horizontally impacted and her baby tooth is still intact. After the appointment, I immediately saw two orthodontists and two oral surgeons to see what the best plan of action was. I have been told by all of them that she runs the risk of damaging her healthy bottom teeth if we don't remove the adult tooth quite soon.

After seeing these doctors and getting numerous opinions, the mass agreement was to perform oral surgery to remove the impacted adult canine, pull the baby tooth and transplant the adult tooth where it should be. She will need anesthesia for this surgery as she will be asleep during the procedure.

Because there isn't room in her mouth for the adult tooth (the baby tooth is quite smaller), it became necessary for [REDACTED] to get braces to make space. It had been made clear to me, up to this point, that [REDACTED] had beautiful teeth with no orthodontic issues. The braces are solely to allow success of the transplant. They will also have to be put back on to hold the tooth in place after surgery.

While I understand that my dental coverage is separate from my medical, I called to see what, if any, options I have. I have already reached my maximum dental coverage and was told to submit necessary documentation for coverage consideration. I am requesting, that because this is surgically necessary, that my medical insurance cover the remaining cost of the surgery and braces. This is going to be extremely straining on my current financial state.

BCBSM's Argument

In its final adverse determination to the Petitioner's mother BCBSM stated:

. . . After review, I confirmed that the denial of payment/preauthorization must be maintained. The services are not payable under your MESSA medical policy.

You are covered under the *MESSA Choices Group Insurance for School Employees*. Page 30 of the Coverage Booklet under subsection Dental Services explains:

Covered services include dental treatment by a licensed dentist or dental surgeon required for:

- Accidental injury to sound natural teeth
- The removal of cyst and tumors of the mouth and jaw
- Extraction of impacted teeth

Additionally, page 54 of the *Coverage Booklet* under subsection Exclusions and Limitations, explains that the following exclusion and limitation applies to the MESSA Choices program:

- Dental care (except as previously specified) including repairs of supporting structures for partial or complete dentures, dental implants, extractions, extraction repairs, bite splints, braces and appliances and other dental work or treatment.

A board-certified D.D S. in Oral and Maxillofacial Surgery reviewed your appeal, your health care plan benefits for [BCBSM], and the medical documentation provided. Based on the review, the following was determined:

All of the documentation was reviewed and it reveals that the member had orthodontic services rendered. The documentation by the orthodontist indicates that "tooth M is retained and #22 is impacted horizontally." The orthodontist indicates that the orthodontic appliances would be necessary to create appropriate space for surgery to be performed to allow for #22 to be auto transplanted by an oral surgeon. However, the pediatric dentist and the oral surgeon indicated tooth #27 was impacted.

Additionally, the oral surgeon billed of #R and two surgical procedures for tooth #27.

The significance of this is that the orthodontist is referring to teeth on the left side of the jaw and the pediatric dentist and oral surgeon are referring to teeth on the right side of the jaw. There is conflicting documentation by the providers. Orthodontic treatment is dental treatment. Extraction of a tooth and auto transplantation of a tooth is dental treatment.

Therefore, because braces and appliances are not a covered benefit under your MESSA medical policy, our denial of payment must be maintained. You remain liable for the unpaid balance for the orthodontic services rendered to your daughter.

Director's Review

The Petitioner's health plan contains only very limited coverage for dental care (benefit booklet, p. 30). Moreover, the benefit booklet (p. 54) has this exclusion for orthodontic treatment (braces and appliances):

The following exclusions and limitations apply to the MESSA Choices/Choices II program. These are in addition to limitations appearing elsewhere in this booklet.

* * *

- Dental care (except as previously specified) including repairs of supporting structures for partial or complete dentures, dental implants, extractions, extraction repairs, bite splints, braces and appliances and other dental work or treatment.

The Petitioner's mother argues that the orthodontic care is a medical necessity and is not cosmetic. There is no dispute that the orthodontic treatment is necessary. However, the orthodontic treatment that the Petitioner's mother seeks to have covered is just not a benefit under the health plan.

The Director finds that BCBSM's denial of coverage for the Petitioner's orthodontic services is consistent with the terms and conditions of the benefit booklet.

V. ORDER

The Director upholds Blue Cross Blue Shield of Michigan's January 28, 2015, 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:



Joseph Garcia
Special Deputy Director