

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. 146677-001

Blue Cross Blue Shield of Michigan
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On March 6, 2015, ██████████ (Petitioner), filed a request for external review with the Director of Insurance and Financial Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits under a group plan sponsored by the Michigan Education Special Services Association (MESSA) and underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in the *MESSA Choices/Choices II* benefit booklet.

The Director notified BCBSM of the external review request and asked for the information used to make its final adverse determination. After a preliminary review of the material submitted, the Director accepted the request on March 13, 2015. 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 had cancer of the tongue and received radiation treatment which she says

caused permanent decay in her teeth. Her dentist recommended extraction of the remaining teeth, bone grafts, guided tissue regeneration, implants, abutments and interim and custom complete dentures over implants.

The dental work was performed between March 24 and December 19, 2014. On April 17, 2014 the Petitioner's dentist requested coverage for the services. BCBSM denied the request, ruling that the treatment is dental in nature and, as such, is not a covered benefit under the Petitioner's certificate of coverage.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination dated February 11, 2015, affirming its decision. The Petitioner's now seeks a review of that adverse determination from the Director.

III. ISSUE

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

IV. ANALYSIS

Petitioner's Argument

The Petitioner's dentist, in a November 25, 2014 letter to MESSA wrote:

[Petitioner] clearly has a dental condition that is directly caused by a medical condition. More specifically, squamous cell carcinoma. The subsequent radiation treatment of this disease has left her with partial facial paralysis, non-functioning salivary glands and restricted blood flow.

The effects of this scenario on her dental health have been devastating. Despite her above average oral hygiene, caries producing bacteria proliferate in an environment devoid of saliva. This has caused her previous dental restorative treatment to decay and fail. She has rampant decay and multiple abscess formations at the apex of her roots.

She now needs full mouth extractions, bone grafting and implant retained dentures. The implants are needed, again, because of her lack of saliva. Without saliva to form suction the dentures will not function, unless implants are used to anchor them.

Lastly, I ask that you reconsider and reverse your denial because this is the same condition that you deemed a medical necessity and provided coverage for in 2008. [REDACTED] is simply suffering the final effects of the same condition. The treatment plan presented with this letter represents the final treatment for this case.

BCBSM's Argument

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

After review, we confirmed that the denial of prior authorization must be maintained. The services are not payable under the 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.

* * *

Because the procedures are not a result of an accidental injury to sound natural teeth, surgical removal of a cyst or tumor of the mouth or jaw, extraction of impacted/unerupted teeth or an appliance related to changes in the jaw joint (TMJ), they are not a covered benefit under your MESSA medical policy. Therefore, our denial of payment must be maintained. If you choose to move forward with the procedures, you will be responsible for the charges.

Director's Review

The *MESSA Choices/Choices II* benefit booklet provides only very limited coverage for dental care. The only treatment available is for accidental injury to sound natural teeth, removal of cysts and tumors of the mouth and jaw, and extraction of impacted teeth. The Petitioner's dental treatment does not involve any of these circumstances.

The Petitioner states that BCBSM covered some of her dental services in the past. However, in conducting external reviews under the Patient's Right to Independent Review Act, the Director's role is limited to determining whether an insurer has properly administered

benefits under the terms of the Petitioner's present coverage. Under her present coverage, the Petitioner's treatment is not a covered benefit.

The Director understands the treatment was medically necessary. The Petitioner and her dentist present a very compelling argument for the need to have the treatment performed. Unfortunately, the services involved are not benefits under the Petitioner's medical coverage.

The Director finds that BCBSM's denial of coverage for the Petitioner's dental services is consistent with the terms and conditions of the *MESSA Choices/Choices II* benefit book.

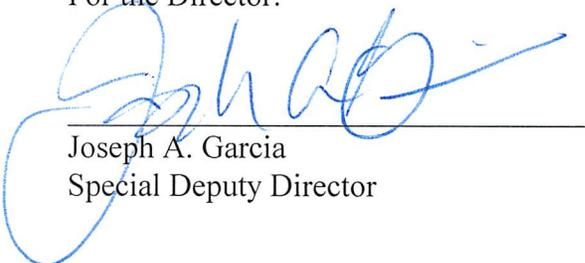
V. ORDER

The Director upholds Blue Cross Blue Shield of Michigan's February 11, 2015 final adverse determination. BCBSM is not required to provide coverage for the Petitioner's March 24, 2014 through December 19, 2014 dental care services.

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 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 A. Garcia
Special Deputy Director