

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. 146721-001

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 30th day of March 2015
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 9, 2015, ██████████ (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 16, 2015, after a preliminary review of the materials submitted, the Director accepted the request.

The Petitioner receives health care benefits as a dependent of his wife ██████████ through an individual plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM), a mutual insurance company. 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 25, 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 benefits are defined in the *Blue Cross Premier Silver Benefits Certificate*¹ (the certificate).

From October 14 through November 21, 2014,² the Petitioner received chiropractic

¹ BCBSM form no. 603F, federal approval 09/13 and state approval 08/14.

treatment and physical therapy from chiropractor [REDACTED]. BCBSM covered an office visit (CPT code 99202) and chiropractic manipulative treatment (CPT code 98940) but denied coverage for the physical therapy: hot or cold pack therapy (CPT code 97010) and massage therapy (CPT code 97124).

The Petitioner appealed the denial of coverage of coverage for the physical therapy through BCBSM's internal grievance process. BCBSM conducted a managerial level conference on December 17, 2014, and issued its final adverse determination dated January 9, 2015 affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Is BCBSM required to cover the Petitioner's physical therapy from October 14 through November 21, 2014?

IV. ANALYSIS

Petitioner's Argument

It is the Petitioner's position that BCBSM furnished incorrect information about his coverage for physical therapy. In an appeal letter to BCBSM dated December 3, 2014, submitted with the request for an external review, the Petitioner's spouse wrote:

I would first of all request that you please pull up the recorded conversation that took place on October 8 2014. In this conversation you will note that I . . . spoke with [REDACTED] regarding whether or not my new policy (changed due to the Affordable Healthcare Act) covered the following Procedure Codes

98940

98941

97124

99212

I talked to [REDACTED] at [REDACTED] Chiropractic Clinic so that I could call BCBSM and check to see if these would be covered. [REDACTED] checked into all of these codes and told me the following: All these codes would be covered by my health plan (after my deductible that she said I had met), and that each person would receive 30 visits per year for the code 97124. I also specifically asked if [REDACTED] was listed as being accepted and she assured me yes.

2 The Petitioner says he received services through January 9, 2015, but BCBSM's final adverse determination only addressed the services through November 21, 2014.

I then asked her to check again - it has been in my experience to ask not once, but at least twice regarding anything that might cause me to pay additional money down the line. She then put me on hold and when she returned she confirmed what she had previously told me regarding procedure code 97124.

After this conversation I scheduled appointments for . . . my husband . . . confident in the information that was provided to me by [REDACTED] and so glad that I had done my due diligence by checking prior to having any of the above mentioned procedures done. . . .

* * *

I can tell you that if I had been given the correct information when I initially called on October 8 2014 that I would not have this issue with my Dr.'s and having them getting properly compensated. I did everything that BCBS instructs an enrollee to do - if you have questions as to whether or not something is covered to call and request that specific information - and that is specifically what I did. I even got the procedure codes from my Dr. so that I could make sure in my conversation with [REDACTED]. . .

BCBSM's Argument

In its final adverse determination, BCBSM's representative explained to the Petitioner's wife:

According to your Certificate, the only physical therapy service that a chiropractor is approved to perform is mechanical traction. . . . [Y]our husband . . . received the following physical services by a chiropractor:

- Hot or cold packs therapy (procedure code 97010)
- Massage therapy, each 15 minutes (procedure code 97124)

* * *

The physical therapy services received are not considered mechanical traction and were performed by . . . [REDACTED], who [is a] chiropractor. Therefore, no payment is available.

* * *

However, you and your family remain liable for the other non-covered services you and your family received. . . . These services are not covered because chiropractors are not payable providers for these physical therapy services. The amount owed for these services are in addition to your family's coinsurance and copayment responsibilities.

* * *

Your husband is liable for \$11.84 which represents his 20 percent contractual coinsurance requirement. Also, a \$50.00 copayment has been applied for the October 21, 2014 office visit. . . .

* * *

While I regret you feel you have received incorrect or misleading information from a BCBSM customer service representative, as a Grievance and Appeals coordinator for BCBSM, it is my responsibility to ensure that the claims at issue processed according to Plan Design. As a result I am not able to make an exception on your family's behalf.

Director's Review

The Petitioner received hot or cold pack therapy (CPT code 97010) and massage therapy (CPT code 97124) at [REDACTED] office and BCBSM denied payment. These services are considered to be physical therapy and they were billed by [REDACTED], a chiropractor. But according to the certificate (p. 71), physical therapy must be given by "approved providers" and the only physical therapy shown that a chiropractor is approved to render is mechanical traction, which the Petitioner did not have. Therefore, the Director concludes that BCBSM correctly denied the claims for physical therapy (CPT codes 97010 and 97124) billed by [REDACTED].

The Petitioner's spouse says she contacted BCBSM's customer service by telephone on October 8, 2014, to inquire about whether specific services would be covered; she furnished a recording of that telephone call that came from BCBSM.

In that telephone call, she asked BCBSM if these four CPT codes would be covered services under her plan: 98940, 98941, 97124, and 99212 (she did not inquire about 97010, hot or cold pack therapy). She was told that all four would be covered, including the massage therapy.³ BCBSM's representative then asked for the name of the doctor who would be billing for the services and was told it was [REDACTED], and BCBSM's representative confirmed that [REDACTED], a chiropractor, is in the Petitioner's PPO network. It was reasonable for the Petitioner's spouse to conclude that [REDACTED] could perform the services she inquired about.

It was not until the Petitioner's spouse called BCBSM again on November 26, 2014, that it was explained that while all four CPT codes were benefits under her plan, not all those services would be covered when performed by a chiropractor.

While it is unfortunate that the Petitioner may have received misleading information, the Director must uphold BCBSM's decision in this case. The Director does not have the authority in this review under the Patient's Right to Independent Review Act to change the Petitioner's coverage because of incorrect information received from BCBSM. The Director can only

³ Massage therapy appears to be excluded from coverage in the certificate (see p. 137).

determine if BCBSM correctly administered benefits according to the terms and conditions of the certificate, and the Director finds that it did.

BCBSM is not required to cover the Petitioner's hot or cold pack therapy (CPT code 97010) and massage therapy (CPT code 97124) when provided by a chiropractor.

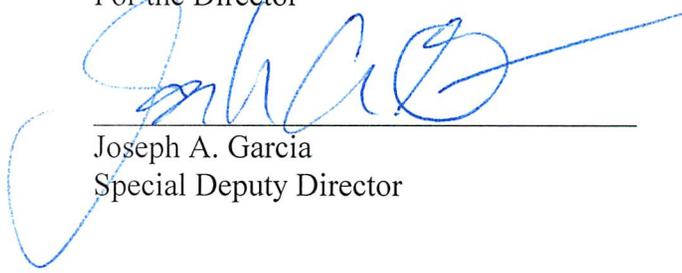
V. ORDER

The Director upholds Blue Cross Blue Shield of Michigan's final adverse determination of January 9, 2015.

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, P.O. Box 30220, Lansing, MI 48909-7720.

Annette E. Flood
Director

For the Director



Joseph A. Garcia
Special Deputy Director