

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████, and ██████████
Petitioners

v
State of Michigan, Plan Sponsor
and
Blue Cross Blue Shield of Michigan, Plan Administrator
Respondents

File No. 146858-001-SF

Issued and entered
this 7th day of April 2015
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 17, 2015, ██████████, on behalf of her sons, ██████ and ██████ ██████ (Petitioners), filed a request for external review with the Department of Insurance and Financial Services, appealing a claim denial issued by Blue Cross and Blue Shield of Michigan (BCBSM), the administrator of the Petitioner's health benefit plan which is sponsored by the State of Michigan.

The 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 health benefit plan is such a governmental self-funded plan. The plan's health care benefits are described in the State of Michigan PPO health plan *Benefit Guide*.

On March 24, 2015, after a preliminary review of the information submitted, the Director accepted the Petitioner's request. The Director notified BCBSM of the appeal and asked BCBSM to provide the information used to make its final adverse determination. BCBSM furnished its response on March 31, 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

██████████ received a psychiatric examination on October 24, 2014 and was diagnosed with “attention deficit with hyperactivity.” His brother ██████████ had a psychiatric examination on November 3, 2014 and was diagnosed with “generalized anxiety disorder.” Both subsequently received biofeedback training. ██████████ training began October 29, 2014 and concluded February 13, 2015. ██████████ training began November 4, 2014 and concluded February 13, 2015. The biofeedback training was provided by Neurocore, a BCBSM participating provider.

BCBSM denied coverage for the psychiatric evaluations and biofeedback training. The Petitioners’ mother appealed the denials through BCBSM’s internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated February 13, 2015, affirming its decision. The Petitioners now seeks a review of that adverse determination from the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the psychiatric evaluations and biofeedback services?

IV. ANALYSIS

Respondents’ Argument

In its final adverse determination, BCBSM stated that the psychiatric evaluations were not covered mental health benefits under the State of Michigan’s BCBSM coverage. Mental health coverage for State of Michigan employees is provided under a separate plan administered by Magellan Health Services. For that reason, no coverage is available under the BCBSM plan for psychiatric evaluations.

Regarding the biofeedback training, BCBSM wrote:

According to Page 52 of the State of Michigan’s *Your Benefit Guide*, “Covered services are services, treatment or supplies identified as payable under the [State Health Plan] PPO. Covered services must be medically necessary to be payable, unless otherwise specified.”

Specifically, according to the plan's Benefit Package Report (BPR), which is the online tool used by BCBSM to house procedure specific benefit information for your plan, procedure code 90901 (Biofeedback Training) is a covered service under your family's health care coverage. However, it is subject to diagnostic limitation.

In this case, the provider reported diagnosis code 314.01 (Attention Deficit with Hyperactivity) for [REDACTED], and diagnosis code 300.02 (Generalized Anxiety Disorder) for [REDACTED]. The BPR states that Biofeedback Training is not payable when the primary diagnosis is anything other than incontinence or chronic constipation. Because the diagnoses reported for the services your sons received do not fall into those categories, these services are not payable. You remain liable for the charges totaling \$3,900.00.

However, these services may be payable as part of your mental health benefit which as mentioned above, is carved out to Magellan. The diagnoses submitted by the provider for these services are considered psychological disorder diagnoses. As a result, you or your provider should also submit the claims for biofeedback services to Magellan for payment.

Petitioner's Argument

In the request for external review, the Petitioners' mother stated that they began the treatment after Neurocore told them that BCBSM had agreed to provide coverage. She wrote:

On 12/11/14, I received an Explanation of Benefits statement from BCBS for [REDACTED] which indicated that none of these services performed by Neurocore were covered by the BCBS PPO plan. By this time [REDACTED] had completed 20 of the 30 biofeedback sessions, and [REDACTED] had completed 17 of the 30 biofeedback sessions. On 12/12/14, I talked to [the insurance coordinator] at Neurocore, and she explained to me that she checked my plan with BCBS on 10/13/14 and 10/16/14 through BCBS's website, Webdenis, which indicated that services would be covered. [She] was advised on 10/28/14 by a BCBS representative that not all of the benefit information had been loaded into Webdenis.

In other words, anyone (providers, BCBS representatives, etc.) inquiring about biofeedback coverage through BCBS's website, Webdenis, for the first two weeks of this new plan period beginning 10/12/14 were misquoted; there are several State of Michigan families impacted by Webdenis not being updated who thought they had coverage for biofeedback and have since been denied coverage.

* * *

I am seeking resolution in that BCBS will cover and pay all services (\$230 for each initial consultation and \$65 each for 30 biofeedback sessions — \$2,200 total for each) performed by Neurocore for both [REDACTED] as they

originally quoted Neurocore....Additionally, I am seeking resolution in that BCBS will cover 10 additional biofeedback sessions at \$65 each (\$650 total for each) for both [REDACTED] as recommended by Neurocore once they have completed the first 30 sessions.

Director's Review

BCBSM does not administer benefits for mental health care and substance abuse care for State of Michigan employees and their dependents. Psychiatric diagnostic evaluation is a mental health service. Mental health services are not listed in the *Benefit Guide* which states, on page 38, that "services that are not covered in your plan coverage documents" are not covered. Because no coverage is available for psychiatric evaluations in the BCBSM/State of Michigan, BCBSM's denial of benefits for the evaluations was correct.

The BCBSM/State of Michigan plan also does not include coverage for biofeedback training. The training in this case was used to treat two psychiatric conditions, attention deficit with hyperactivity and anxiety disorder.

The Petitioners' argument is that the provider of their biofeedback services was informed, through BCBSM's online information system, coverage was available for biofeedback treatment of the Petitioners' diagnosed conditions. Under the Patient's Right to Independent review Act the Director's role is limited to determining whether an insurer has properly administered health care benefits according to the terms of the applicable insurance contract and any relevant state law. The Director has no authority to amend the terms of an insurance contract based on communications between BCBSM and providers.

Whether the provider correctly determined the availability of the coverage, it is not in dispute that BCBSM issued directly to the Petitioners a written coverage denial in an Explanation of Benefits form issued on November 28, 2014, soon after the biofeedback training began. Additional notices were sent on December 5, 2014; Dec 12, 2014; January 2, 2015; Jan 16, 2015; and February 20, 2015. The Petitioner's mother stated in her request for review that she received the November 28 notice on December 11. Nevertheless, the biofeedback training continued until February 13, 2015. It does not appear from the request for review that, during this time, the Petitioner's parents initiated any contact with BCBSM regarding the availability of coverage.

The Petitioners' access to mental health evaluation and treatment is provided through Magellan Health Services. That coverage is detailed in Magellan's *Mental Health & Substance Abuse Information Guide*. That document indicates that access to mental health services begins with the member contacting Magellan by telephone to determine the level of treatment needed. There is no indication that the Petitioners' parents attempted to obtain the services in question

through Magellan Health Services, the designated provider of such services under the State of Michigan benefit plan.

The Director finds that BCBSM denial of coverage for the Petitioners' psychiatric evaluations and biofeedback training is consistent with the terms of the Petitioners' BCBSM/State of Michigan coverage.

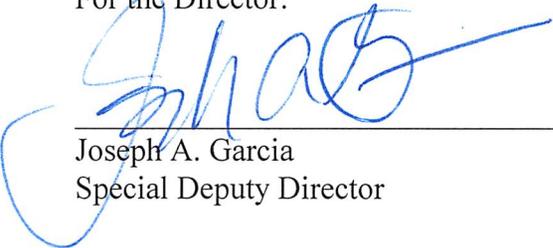
V. ORDER

The Director upholds BCBSM's February 13, 2015 final adverse determination. BCBSM and the State of Michigan are not required to provide coverage for the Petitioners' psychiatric evaluations and biofeedback training.

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 A. Garcia
Special Deputy Director