

**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. 146868-001-SF**

**State of Michigan, Plan Sponsor**

**and**

**Blue Cross Blue Shield of Michigan, Plan Administrator  
Respondents**

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**Issued and entered  
this 18<sup>th</sup> day of May 2015  
by **Randall S. Gregg**  
**Special Deputy Director****

**ORDER**

**I. PROCEDURAL BACKGROUND**

On April 6, 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 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 benefits are described in BCBSM's *State Health Plan PPO*.

On April 13, 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 April 21, 2015.

To address the medical issue in this case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation on May 7, 2015.

## II. FACTUAL BACKGROUND

The Petitioner has a twenty year history of migraine headaches. Between October and December 2014, she received biofeedback therapy at [REDACTED], which charged \$65.00 per session. In total, BCBSM processed claims for 23 sessions and denied coverage for all the sessions.

The Petitioner appealed the denial through BCBSM's internal grievance process. BCBSM held a managerial-level conference and issued a final adverse determination dated March 30, 2015, upholding its decision. The Petitioner now seeks a review of that adverse determination from the Director.

## III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's biofeedback training?

## IV. ANALYSIS

### Respondent's Argument

Following the managerial-level grievance conference, BCBSM issued its final adverse determination to the Petitioner in which BCBSM wrote:

The purpose of the conference was to discuss the denial of payment for biofeedback therapy services (procedure code 90901) provided by [REDACTED] from October 16 through December 30, 2014. After a thorough review, the denial for payment is maintained. Thus you can be billed for the charges.

You are covered under the *State of Michigan Health Plan PPO*. Under the terms of your plan, procedure code 90901 is a covered benefit. However, limitations apply. The *Benefit Package Report*, which is an online tool used by [BCBSM] to house procedure specific benefit information, explains that this procedure code is only payable in the treatment of specific conditions. For this service, your provider submitted diagnosis (patient condition) 300.00 (anxiety state), which is not a covered diagnosis.

In order to ensure that all consideration was given to your appeal, a board-certified M.D., in Family Practice reviewed your claim, your appeal, and your health care plan benefits for Blue Cross Blue Shield of Michigan. The consultant explained:

All documentation was reviewed. Member is appealing the denial of coverage for biofeedback that she received from October 16 through December 30, 2014. The member is a 50 year old female who received neurofeedback through [REDACTED] for migraine headaches and anxiety.

Per the BCBSM policy *Neurofeedback*, neurofeedback is considered an established therapy for patients age 18 or younger with a confirmed diagnosis of attention deficit hyperactivity disorder. Neurofeedback is investigational for all other conditions of the central nervous system, including migraine headaches. In addition, the member is not receiving neurofeedback as part of a comprehensive migraine treatment program under the direction of an established attending physician. Deny.

Our medical consultant has maintained the claim denial because [BCBSM] has determined that neurofeedback in the treatment of migraine headaches and anxiety is considered investigational. According to *Your Benefit Guide*, page 38, BCBSM does not cover services that are investigational.

\* \* \*

In your appeal, you explained that you had reviewed your health coverage and had contacted your provider in order to determine coverage for your biofeedback services. As noted above, while the procedure code of biofeedback services (90901) is a covered benefit, diagnostic restrictions apply.

You also expressed your frustration with being notified on December 12, 2014, that the biofeedback services were not covered. While your treatments began on October 16, 2014, BCBSM received the first claim from your provider on November 3, 2014. BCBSM cannot determine coverage for claims it has not received. BCBSM began processing claims from your provider on December 9, 2014. You were then notified that the services were not covered under the terms of your policy.

### Petitioner's Argument

In her request for an external review the Petitioner wrote:

I have a diagnosis of migraines and have been treated for over 20 years. After researching Biofeedback I found a program offered by [REDACTED] to help me....

I provided Neurocore with my insurance information. [REDACTED] called BCBS and verified insurance coverage. BCBS failed to update their [website with benefit information] and is not admitting their website contained inaccurate information. Essentially, BCBS is denying they failed to properly update their website which Providers, BCBS Representatives, and insured patients rely on for coverage of benefits.

\* \* \*

I am seeking resolution that BCBS cover the services originally quoted to my family so that we may complete the biofeedback sessions as recommended by [REDACTED]....

### Director's Review

The Petitioner argues that misinformation on a BCBSM website misled her and her provider to believe that her biofeedback training was a covered benefit, therefore, BCBSM should cover the services. This is not an issue that can be resolved under the Patient's Right to Independent Review Act (PRIRA). Under PRIRA, the Director's role is limited to determining if BCBSM properly administered benefits under the terms of the certificate of coverage and state law. The PRIRA does not give the Director the authority to alter the terms of an insurance contract to conform to inaccurate information purportedly provided by an insurer.

BCBSM based its denial on its determination that the treatment was investigational. To evaluate that conclusion, the Director presented the issue to an independent review organization (IRO) for analysis, as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO reviewer is a physician in active practice who is certified by the American Board of Psychiatry and Neurology; with a subspecialty in clinical neurophysiology. The IRO report included the following analysis and recommendation:

It is the determination of this reviewer that the biofeedback training, any modality did not meet plan criteria for coverage and was not medically necessary for the treatment of the enrollee's condition.

#### **Clinical Rationale for the Decision:**

The health plan Medical Policy: Biofeedback states in part: Diagnoses/Medical Conditions – Incontinence of urine, Mixed incontinence (male) (female), incontinence, anal sphincter, Chronic constipation...Biofeedback is not an established therapy for any other indications...Inclusionary and Exclusionary Guidelines – Exclusions: Headaches, Chronic pain, Hypertension, Stroke, All other conditions not noted in the inclusionary guidelines..."

The health plan refers specifically to coverage of biofeedback procedure for chronic constipation and incontinence. The diagnosis code submitted was for generalized anxiety disorder (300), therefore not covered under her insurance plan.

Biofeedback training could be used as an adjuvant non-pharmacological treatment approach for patient with psychiatric comorbidities resulting in intractable headaches. It is usually done in a large headache clinic as part of a multidisciplinary approach for controlling intractable headaches under the supervision of neurologists, psychiatrists, psychologists and therapists.

Unfortunately, the documentation submitted for review contains no physician notes to definitively document a diagnosis of migraines or anxiety in this enrollee

and the services were not recommended by an attending physician. It is unclear whether the anxiety diagnosis mentioned in the biofeedback claims had any relation to her migraines.

The enrollee appears to have intractable headaches apparently of a migraine type. The usual treatment in this situation includes preventative medication such as beta blockers, anticonvulsants or antidepressants in association with Triptan medications for acute headache management and Botox therapy in cases of failure of multiple preventive drugs. Non-pharmacological approaches could be useful in selected patients, especially in cases of certain comorbidities but these should also be individualized and prescribed by an attending physician.

According to the article by Mullally et al, a randomized, prospective, single blind single center controlled trial was done to assess the efficacy of biofeedback in reducing the frequency and severity of migraine and tension type headaches. Sixty-four patients with migraines with or without aura and/or tension type headaches, age eighteen to fifty-five, who had suffered from headaches for more than one year, were entered into the study. Patients were randomly assigned to receive biofeedback in addition to the basic relaxation instruction or relaxation techniques alone. Biofeedback training consisted of ten, fifty minute sessions utilizing standard electromyogram (EMG) feedback from the frontalis and trapezius muscles and temperature from the third finger of the dominant hand. Visual and auditory feedback was provided. Thirty-three patients were assigned to receive biofeedback plus the relaxation techniques and thirty-one, the relaxation techniques alone. All patients were asked to respond to periodic questionnaires for thirty-six months. In their conclusion, the authors state that biofeedback is an extremely costly and time consuming treatment modality that, in their study, provided no additional benefit when compared to simple relaxation techniques alone in the treatment of migraine and tension type headaches in adults. (1)

Estemalik's review article documented the actual guidelines for prevention and management of migraines in adults in USA and Canada. Currently accepted preventive therapies include beta blockers, anticonvulsants, calcium channel blockers, antidepressants and Botox. For the acute treatment of migraine headaches, Triptan medications are the preferred choice with a consideration also given to non-steroid anti-inflammatory drug (NSAID) and antihistamine medications. (2)

**Recommendation:**

It is the recommendation of this reviewer that the denial issued by [BCBSM] for the biofeedback training any modality be upheld.

**References:**

1. Mullally, WJ, Hall K, Goldstein R. Efficacy of biofeedback in the treatment of migraine and tension type headaches. Pain Physician. 2009 Nov-Dec; 12(6)

1005-11.

2. Estemalik E. & Tepper S (2013). Preventive treatment in migraine and the new US guidelines. *Neuropsychiatric Disease and Treatment*. 2013; 9:709-720.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the recommendation is afforded deference by the Director. In a decision to uphold or reverse an adverse determination, the Director must cite "the principal reason or reasons why the [Director] did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on experience, expertise, and professional judgment. In addition, the IRO's recommendation is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15).

The Director discerning no reason to reject the IRO's recommendation, finds that the Neurocore therapy is investigational for the Petitioner's conditions and is, therefore, not a covered benefit under the terms of the *State Health Plan PPO* certificate.

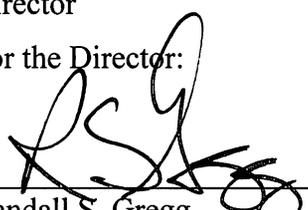
#### V. ORDER

The Director upholds BCBSM's final adverse determination of March 30, 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, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin  
Director

For the Director:



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Randall S. Gregg  
Special Deputy Director