STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of Insurance and Financial Services

In the matter of:

[redacted]

Petitioner

v **File No. 146922-001-SF**

State of Michigan, Plan Sponsor

and

Blue Cross Blue Shield of Michigan, Plan Administrator

Respondents

Issued and entered
this 8th day of April 2015
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 20, 2015, [redacted] (Petitioner) filed a request with the Director of Insurance and Financial Services for an external review under Public Act 495 of 2006, (Act 495) MCL 550.1951 *et seq*. On March 27, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits through a plan sponsored by the State of Michigan (the plan), a self-funded governmental health plan as defined in Act 495. Blue Cross Blue Shield of Michigan (BCBSM) administers the plan. The Director immediately notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. BCBSM submitted its response on April 7, 2015.

Section 2(2) of Act 495, MCL 550.1952(2), authorizes the Director to conduct this external review as though the Petitioner were a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*.

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 described in the State Health Plan PPO benefit book for retirees not eligible for Medicare or who have coverage that pays before the State Health Plan PPO (the benefit book).

The Petitioner was hospitalized following a fall. On February 26, 2015, she was transferred to [redacted], a skilled nursing facility (SNF) for further rehabilitation.

BCBSM initially approved 8 days of skilled care at the facility. It later certified additional days through March 12, 2015. On March 18, 2015, the Petitioner asked that her stay be extended through March 31, 2015. BCBSM denied the request on the basis that SNF care was no longer medically necessary.

The Petitioner appealed the denial through the plan's internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated March 19, 2015, upholding its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. Issue

Did BCBSM correctly deny authorization for skilled nursing care after March 12, 2015?

IV. Analysis

Petitioner's Argument

On the request for external review form the Petitioner wrote:

> Nursing care while convalescing from head injury caused by a fall. Neurologist suggests in-patient care to prevent falls and injury.
>
> I am a retired disabled corrections officer through the State of Michigan. The condition is on-going and disabling. At times the pain is so severe I cannot respond or call for help.

In her March 18, 2015 request to BCBSM, the Petitioner said:

> The facility I currently reside in has received a denial of payment and/or extension of stay for further treatment. . . .
>
> I have discussed my condition with my neurologist and he agrees I need a further length of number of days of inpatient care. I am experiencing severe pain in my

cranium which renders me helpless and vertigo which led to the earlier fall which caused my injuries leading to my convalescent stay. The pain and vertigo are continuous and cause me to be helpless to care for myself.

Respondents' Argument

In its final adverse determination, BCBSM told the Petitioner:

> [T]he authorization denial for additional skilled nursing care is maintained. Our medical consultant review indicates that your care does not require a continuing stay in a skilled nursing facility. As such, the clinical criteria required for approval are not met.
>
> You are covered under the State of Michigan, a self-funded group health plan. As indicated on page 57 and 58 of the *State Health Plan PPO Benefit Book,* your benefits provide for skilled nursing care in a skilled nursing facility (SNF) as follows:
>
> > **Skilled nursing care**
> >
> > Members have 120 skilled nursing days per admission. Care must be received in a BCBSM-approved skilled nursing facility and the following criteria must be met:
> >
> > - The patient is suffering from or gradually recovering from an illness or injury
> > - The patient is expected to improve
> > - The admission has been preauthorized by BCBSM.
>
> A board-certified M.D. in Internal Medicine reviewed the clinical documentation. Based on the review, the following was determined.
>
> > Your appeal request for approval of additional days of skilled physical and occupational therapy in a skilled nursing facility was reviewed by first applying InterQual criteria for Skilled Nursing Facility Level 1. Our review shows that sixteen days were approved for therapy following hospitalization for dizziness and a history of falls. As of March 13, 2015 you did not need any physical assistance (or you were independent) for most of your reported care including transfers, bathing, dressing and you could walk 150 feet with a walker. Your care does not require a continuing stay in a skilled nursing facility. Our review suggests that your care can be managed in an alternative setting, including an assisted living setting if returning home is not an option. Therefore, this request was not approved.
>
> Regarding claims, BCBSM has not denied payment for skilled nursing facility care reported by [redacted] for your recent admission. Once a

> claim is received and processed, you will receive an Explanation of Benefits (EOB) detailing our reimbursement. If you disagree with our payment determination, you may follow the appeal process outlined in the EOB.

Director's Review

The skilled nursing care benefit is explained in the benefit book (pp. 57-58), including this requirement:

> Written confirmation of the need for skilled care is required from the patient's physician.

The Petitioner asked to continue her stay in the skilled nursing facility after March 12, 2015, because she was concerned that she would fall again. However, the benefit book says that "written confirmation of the need for skilled care is required from the patient's physician," and there is nothing in the record that indicates that her physician recommended that she continue care at the SNF level. Moreover, the medical records indicated that the Petitioner had met all of her goals for physical and occupational therapy at the skilled level.

The Director concludes and finds that BCBSM's denial of authorization and coverage of the Petitioner's additional days in a skilled nursing facility beyond March 12, 2015, is consistent with the terms of the benefit book.

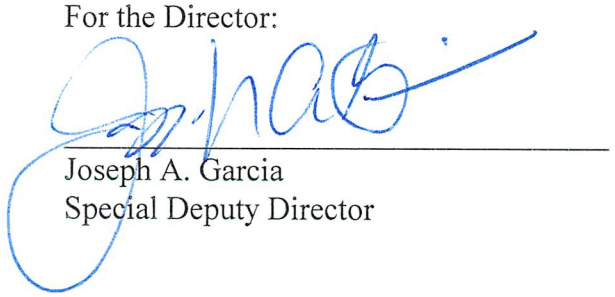
V. ORDER

The Director upholds BCBSM's March 19, 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 A. Garcia
Special Deputy Director