

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

In the matter of:

██████████
Petitioner

v

Blue Cross Blue Shield of Michigan
Respondent

File No. 146926-001

Issued and entered
this 15th day of April 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 26, 2015, ██████████, on behalf of her infant son ██████████ (Petitioner), filed a request with the Director of Insurance and Financial Services for external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the case for review on April 2, 2015. The appeal concerns the amount paid by her insurer for air ambulance services for her infant son.

The Petitioner receives health care benefits through a plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Simply Blue HSA Group Benefits Certificate*. The Director notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. BCBSM provided its response on April 8, 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

On Christmas Day 2014, the Petitioner became ill and was taken by his parents to their local hospital in ██████████. His condition worsened and his doctor determined that the Petitioner should be moved as soon as possible to ██████████, a distance of 60 miles by road. The doctor believed the Petitioner's condition was so serious that he should be

transported by air ambulance. The Petitioner's parents agreed.

The transportation provider was LifeNet, a subsidiary of a Colorado-based air transportation service. The provider billed \$37,570.73 for its services. BCBSM's approved amount was \$7,547.26. BCBSM applied a \$193.57 copayment and paid \$7,353.69, leaving a balance of \$30,217.04.

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

III. ISSUE

Did BCBSM correctly process the claim for the Petitioner's air ambulance transportation?

IV. ANALYSIS

In its final adverse determination, BCBSM wrote:

The provider...is a non-participating provider. Nonparticipating providers are not obligated to accept our approved amount as payment in full. In this case, the provider reported charges totaling \$37,570.73. However, BCBSM determined the approved amount of \$7,547.26 less your son's contractual coinsurance requirement (\$193.57), is the maximum payment amount (\$7,353.69) for the service. Therefore, additional payment cannot be made.

In the request for an external review, the Petitioner's mother wrote that her son had to be moved by air ambulance because he

was not responding, very sick and could have died. He needed to go this way, it was the fastest and safest given the fact it was winter and Christmas. If he didn't go this way he could have died. Please pay more, my family cannot afford \$30,000.

The *Simply Blue* certificate of coverage, on page 17, includes this description of the coverage available for air ambulance services:

When transportation by air ambulance is required, the following conditions must be met:

- The use of an air ambulance is medically necessary and ordered by the attending physician

- No other means of transport is available, or the patient's condition requires transport by air rather than ground ambulance
- The patient is transported to the nearest facility capable of treating the patient's condition and
- The provider is licensed as an air ambulance service and is not a commercial airline

There is no question that the use of air ambulance transportation met the criteria for coverage under the certificate. The sole issue is how much BCBSM must pay for that service under the terms of the *Simply Blue* certificate. The certificate, on page 15, states that BCBSM pays its "approved amount" for covered services. "Approved amount" is defined in the certificate as, "the lower of the billed charge or our maximum payment level for the covered service."

BCBSM determined that its maximum payment for the Petitioner's air ambulance transport and mileage was \$7,353.69 (the approved amount of \$7,547.26 minus the coinsurance requirement of \$193.57).

The provider in this case does not participate with BCBSM which means that it has not signed a participation agreement with BCBSM to accept BCBSM's approved amount as payment in full. Because the air ambulance provider has not agreed to accept BCBSM's approved amount as payment in full, it can bill the Petitioner's family for the difference between its charges and BCBSM's approved amount. The certificate does not require BCBSM to pay a nonparticipating provider's charge in full under any circumstances. As the certificate notes on page 126:

If the out-of-network provider is **nonparticipating**, you will need to pay most of the charges yourself. Your bill could be substantial....

NOTE: Because non-participating providers often charge more than our approved amount, our payment...may be less than the amount charged by the provider.

The Patient's Right to Independent Review Act (PRIRA) authorizes the director to address issues of medical necessity and to review an insurer's claims decisions to determine whether those decisions are consistent with the terms of the insurance policy in question and any applicable state law. The Director does not regulate medical providers such as, in this case, a private air ambulance business.

The director can make no determination as to what would constitute a reasonable fee for the transportation of the Petitioner by air ambulance. The air ambulance service is not regulated by the Department of Insurance and Financial Services and is not a participant in PRIRA reviews. The Director has no authority to require the air ambulance service to waive or adjust its charges.

BCBSM paid its maximum approved amount for the services and is not required to pay more. Consequently, the Director finds that BCBSM correctly processed the claims for the air ambulance service under the terms and conditions of the certificate.

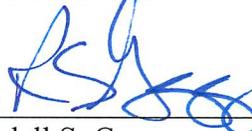
V. ORDER

The Director upholds BCBSM's final adverse determination of March 11, 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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director