

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. 147248-001

Blue Cross Blue Shield of Michigan  
Respondent

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Issued and entered  
this 29<sup>th</sup> day of April 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On April 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 April 16, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits under an individual plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). 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 April 24, 2015.

This case can be resolved by applying the terms of the Petitioner's coverage; it does not require a medical opinion from an independent review organization. See MCL 550.1911(7).

**II. FACTUAL BACKGROUND**

The Petitioner's health care benefits are defined in BCBSM's *Keep Fit and Member Edge Individual Market Certificate*. The certificate is amended by *Rider IOC \$1,500/\$3,000-I, \$5,000/\$10,000-O, \$5,000/ \$10,000 OOPM Inpatient and Outpatient Cost-Sharing Requirements*.

On December 12, 2014, the Petitioner had outpatient surgery. The amount charged was \$3,391.00 (\$2,691 for the surgical services and \$700.00 for the anesthesia services). BCBSM

approved \$1,922.85 (\$1,555.84 for the surgical services and \$367.01 for the anesthesia services). BCBSM applied the total approved amount to the Petitioner's outpatient deductible.

The Petitioner appealed BCBSM's claims processing decisions through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated March 10, 2015, upholding its payment decisions. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly process the claims for the outpatient services the Petitioner received?

### IV. ANALYSIS

#### Petitioner's Argument

In a January 29, 2015 letter to BCBSM filed with the request for external review, the Petitioner wrote:

I am writing to appeal the denial of claim #2714353746500 with a service date of 12/12/14. On October 27, 2014, prior to scheduling a procedure, I called [BCBSM] and provided procedure code description code #58353 [endometrial ablation] in order to obtain a pre-authorization from your company. The BCBSM agent stated that payment for this procedure would be fully covered (100%) by BCBSM, with no deductible or copays under my insurance plan. I restated the information to the BCBSM agent and she again confirmed that full payment for said procedure would be the responsibility of BCBSM. I proceeded with said procedure based on this confirmation by the BCBSM agent. Had I known that I would be responsible for any deductible or copays and/or payment, I would not have moved forward with the procedure at that time.

Shortly after my procedure, I received an EOB [explanation of benefits] stating that I would be responsible for the payment of \$1922.85. I then called BCBSM and spoke to another agent, as well as her supervisor, and was told the information provided to me by the BCBSM agent on October 27, 2014 was incorrect and I am responsible for said payment.

The Petitioner believes that since she was led to believe by BCBSM that her surgery would be paid in full that BCBSM is required to pay the \$1,922.85 approved amount for her care.

BCBSM's Argument

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

After review, I determined that the claims [were] processed in accordance to your coverage, I cannot approve additional payment. The balance of \$1,922.85 remains a matter between you and your provider.

*Rider IOC \$1,500/\$3,000-I, \$5,000/\$10,000-O, \$5,000/\$10,000 OOPM* modifies your coverage under the *Keep Fit and Member Edge Individual Market Certificate* by setting a \$10,000 deductible that you must pay before we pay for outpatient services. As stated on page 3 of the Rider, "the only benefits that will not be subject to either the inpatient or outpatient deductible requirements will be the following: physician office visits and pre-surgical consultations, preventive care benefits, screening mammography, prescription drugs, accidental injuries." Because your services on December 12, 2014 did not fall into any of these categories, they were subject to the deductible. Although they were performed in an office location, they were not "physician office visits."

In my review, I did examine, as you requested, the October 27, 2014 phone call. While I regret you may 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 claim at issue processed according to Plan Design. As a result, I am not able to make an exception on your behalf.

As stated on Page 7.7 of the Certificate:

Verbal verification of a member's eligibility for coverage or availability of benefits is not a guarantee of payment of claims. All claims are subject to a review of the diagnosis reported, medical necessity verification, the availability of benefits at the time the claim is processed, as well as to the conditions, limitations, exclusions, maximums, and copayments under your coverage.

Director's Review

Rider IOC amended the certificate to add a \$10,000.00 deductible for outpatient services. On December 12, 2014, the Petitioner received endometrial ablation on an outpatient basis. According to the terms of her coverage, this service was subject to the \$10,000.00 annual deductible for outpatient services provided by a panel provider. Therefore, BCBSM applied it approved amount of \$1,922.85 toward the annual outpatient deductible.

The Petitioner argues that prior to scheduling her surgery she was told by a representative

of BCBSM that her care would be covered in full and she would not be responsible for any deductible or copay. She says that if she had known she would be responsible for such a large amount she would have delayed the surgery. Unfortunately, this is not the kind of 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 appropriate certificate of coverage and Michigan law. The PRIRA does not give the Director the authority to alter the terms of an insurance contract to conform to misstatements made by an insurer's employees or agents.

The rider established a \$10,000.00 annual deductible for outpatient services. There is no dispute that: 1) the Petitioner had not met this deductible when her services were rendered and, 2) the Petitioner's surgery does not fall into any of the categories listed in the certificate where the deductible does not apply. Therefore, the Director finds that BCBSM acted in accord with the terms of the certificate and rider when it applied the \$1,922.85 approved amount toward the Petitioner's unmet deductible.

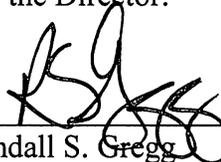
#### V. ORDER

The Director upholds BCBSM's final adverse determination of March 10, 2015.

This is a final decision of an administrative agency. 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. See MCL 550.1915(1). 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:



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Randall S. Gregg  
Special Deputy Director