

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. 147300-001

Blue Cross Blue Shield of Michigan,

Respondent.

Issued and entered
this 5th day of May 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 13, 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 20, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits through an individual plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Director notified BCBSM of the external review request and asked for the information it used to make its adverse determination. BCBSM submitted the information on April 28, 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

The Petitioner's health care benefits are defined in the *Blue Cross Premier Silver Benefits Certificate* (the certificate). *Rider Blue Cross Premier Silver Cost-Sharing 87* (the rider) amended the certificate to decrease the annual integrated deductible, coinsurance requirements and the annual out-of-pocket maximums.

On October 30, 2014, the Petitioner had laboratory and pathology services at [REDACTED]. BCBSM covered some of the services (e.g., A1C test; basic metabolic panel, etc.) at 100% with no cost sharing for the Petitioner. But for the four services¹ that are in dispute in this case, BCBSM applied its entire approved amount to the Petitioner's deductible:

CPT Code	Description	Deductible
36415	Venipuncture	\$ 2.18
82306	Calcifediol (vitamin D)	\$ 32.34
80076	Hepatic function panel	\$ 9.21
83690	Lipase test	\$ 7.52
	Total	\$ 51.25

The Petitioner appealed BCBSM's claim processing decisions through its internal grievance process. BCBSM held a managerial-level conference on January 20, 2015, and at the conclusion of the internal grievance process issued a final adverse determination dated February 19, 2015, affirming its claims 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 laboratory and pathology tests?

IV. ANALYSIS

Petitioner's Argument

On the external review request for the Petitioner said:

Prior to going to my internist . . . for my annual physical, I call BCBSM more than once to check my coverage for tests etc. that she would want for my preventive visit. I had specifically asked at my call about mammograms, BRCA, bloodwork: thyroid, Vitamin D... etc. I was told by the representative that "anything done at the well visit physical is covered." I have always written down who I spoke to & dates I called. I provided all of this documentation to the Appeals at BCBSM, case worker [REDACTED] denied the appeal. When I called her back to ask if she had actually listened to the call (they were pulling the call to check what was said) she said no, she had not listened to the call – they couldn't find it, only the notes from the call. I find this suspicious. I'm just the little guy – their word against mine.

¹ The final adverse determination referred only to four tests discussed in the grievance process.

The Petitioner understood from her contact with BCBSM that there would be no cost sharing for her annual physical. She believes BCBSM is required to cover the tests she received with no cost-sharing.

BCBSM's Argument

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

. . . After review, I confirmed that the claims were processed correctly. You remain responsible for the deductible amount of \$51.25. Our decision is based on the terms and conditions of your health care plan.

At the time of service, you were covered by *Blue Cross Premier Silver Benefits Certificate. Section 2: What You Must Pay*, Page 12, explains that Blue Cross Blue Shield of Michigan (BCBSM) will begin paying for covered services once your annual integrated deductible has been met.

Under *Rider Blue Cross Premier Silver Cost-Sharing 87*, which amends your certificate, the annual integrated deductible is \$600 for a family (2 or more members). Because your 2014 deductible requirement was not met, your deductible (\$51.25) applied to the claim is maintained.

In your appeal and your letter, you expressed your frustration with trying to determine whether your upcoming services would be covered under the terms of your policy. You called several times to discuss your coverage. We also understand that you feel that the services you were provided should be covered without cost share because they were reported as preventive care services.

Section 3: What BCBSM Pays For, Page 91 explains that BCBSM pays preventive benefits and immunizations that are mandated by the Patient Protection and Affordable Care Act (PPACA). You may go to our website . . . for information about services mandated by PPACA. Preventive services as listed in the certificate on pages 89-91 are covered at 100% of the BCBSM approved amount.

In this case, the laboratory and pathology services provided by [REDACTED] [REDACTED] were reported as the collection of venous blood by venipuncture (procedure 36415); calcifediol (25-OH Vitamin D-3, procedure 82306); hepatic function panel (procedure 80076); and lipase (procedure 83690) testing, which are not mandated preventive services, nor are these services listed as payable at 100% of the approved amount by your certificate of coverage. As a result, we are unable to waive your deductible requirement.

During your managerial-level conference, you explained that your laboratory services had been covered the previous year. After review, I determined that you were covered under a different policy when you received those services on

December 27, 2012. While we understand your position, we are unable to make exceptions on your behalf. We are bound by the provisions of coverage.

Director's Review

Section 2713 of the Public Health Service Act² was added by the federal Patient Protection and Affordable Care Act. It requires health plans and insurers to cover without cost sharing those preventive care services with a rating of A or B in the current recommendations of the United States Preventive Services Task Force (USPSTF).³

However, none of the four services the Petitioner received has an A or B rating. The calcifediol test (used to determine the amount of vitamin D in the body) is not mentioned in the USPSTF current recommendations. Similarly, the hepatic function test and lipase test are not rated and are not required preventive care services under the USPSTF recommendations. Lastly, the USPSTF recommendations do not address venipuncture charges at all.

Because the laboratory and pathology services the Petitioner received were not rated A or B, they are subject to any applicable cost sharing requirements in the certificate or the rider. The Director concludes that BCBSM correctly processed the claims according to the terms of the Petitioner's coverage.

V. ORDER

The Director upholds BCBSM's February 19, 2015, final adverse determination.

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. 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:



Randall S. Gregg
Special Deputy Director

2. 42 USC § 300gg-13.

3 <http://www.uspreventiveservicestaskforce.org/Page/Name/uspstf-a-and-b-recommendations/>