

**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. 147837-001**

**Blue Cross Blue Shield of Michigan,**

**Respondent.**

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**Issued and entered**  
**this 3<sup>rd</sup> day of June 2015**  
**by Randal S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On May 12, 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 May 19, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives dental care benefits through an individual plan 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 May 26, 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 dental coverage was effective on May 1, 2014. Her benefits are defined in BCBSM's *Blue Dental Individual Market Benefits Certificate*<sup>1</sup> (the certificate). *Rider BD-EHB-WP-IBU Blue Dental – Waiting Period* (the rider) amends the certificate "to add a waiting period for Class II and Class III services for non-pediatric members."

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<sup>1</sup> BCBSM form no. 962F, state approval 08/13, federal approval 09/13.

On December 1, 2014, the Petitioner had a crown placed on tooth #4 by a network dentist. BCBSM denied coverage, saying the service was not a benefit because it was performed within the 12-month waiting period for crowns. This left the Petitioner responsible out of pocket for \$902.00, BCBSM's approved amount for the service.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination dated April 2, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's crown placed on December 1, 2014?

### IV. ANALYSIS

#### Petitioner's Argument

The Petitioner included with her external review request a letter to BCBSM dated March 5, 2015, that explained her argument:

. . . I visited [my dentist], a member of Blue Cross Blue Shield's network, for a regular check-up. He advised that I should get a Crown, but when I asked if it would be covered by my insurance policy he failed to inform me that said crown would not be covered by my insurance despite me confirming twice with him if the crown will be covered before the procedure. I had indicated to the dentist that if the procedure was not covered by the insurance then I would not like to get anything done and can wait. Due to the fact that the dentist again reassured me that this procedure will be covered by my insurance policy, I went ahead with it. Also, the representative of my dental insurance company advised me that these procedures are covered after 6 months of coverage. Certainly, if I was advised correctly and informed about additional expense, I would have been in a position to make an informed decision regarding alternatives or simply avoiding the procedure altogether.

The Petitioner believes that the crown should be covered because she was misinformed by her dentist and BCBSM.

#### BCBSM's Argument

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

Your request for reconsideration of the previous benefits provided for [the crown] has been denied. Eligibility for the services performed requires continuous coverage for twelve months. This plan became effective on May 1<sup>st</sup>, 2014.

Our records indicate you placed [a telephone call] to our office on May 15<sup>th</sup>, 2014. During that call a representative from BCBSM advised you that your plan had a six month waiting period for basic services and a twelve month waiting period for major services.

Although it may have been recommended for the crown to be completed, the contracted limitations prevent payment of this service for twelve months from the effective date of the policy. This determination was based on a review of the dental contract and your eligibility date.

### Director's Review

The rider amended the certificate to add waiting periods for certain services. The rider says (p. 2):

#### When Your Benefits Begin

Most benefits are available on the effective date of your contract. However, for Class II and Class III services, a waiting period that begins on the effective date of your dental coverage applies as follows:

- A 6-month waiting period for Class II benefits **except for Sealants and Emergency Palliative Treatments**
- A 12-month waiting period for Class III benefits.

This waiting period applies only to non-pediatric members. Class I benefits are not affected by this rider.

Among the Class III benefits are “major restorative services to repair decayed or damaged teeth” like crowns (certificate, p. 16). Therefore, a crown would not be covered under the Petitioner’s plan for the first twelve months, or until May 1, 2015. Because the Petitioner had the crown placed on December 1, 2014, during the twelve-month waiting period, it is not a covered benefit and on that basis the Director upholds BCBSM’s final adverse determination.

The Petitioner says she was told by both her dentist and BCBSM’s representative that the crown would be covered. For its part, BCBSM says it told the Petitioner about the waiting periods for Class II and III benefits when she called on May 15, 2014. But even if the Director could determine that the Petitioner had been misinformed by BCBSM, that fact could not provide a basis for overturning BCBSM’s denial.

In a review under the Patient’s Right to Independent Review Act, the Director does not have the authority to alter the terms and conditions of the insurance contract because of misstatements made by an insurer’s representative. The Director can only determine if BCBSM administered dental benefits according to the terms of the certificate and rider and in this case it did.

**V. ORDER**

The Director upholds BCBSM's April 2, 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.

Patrick M. McPharlin  
Director

For the Director:

A handwritten signature in black ink, appearing to read 'RS Gregg', is written over a horizontal line.

Randall S. Gregg  
Special Deputy Director