

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. 148036-001-SF

State of Michigan, Plan Sponsor
and
Blue Cross Blue Shield of Michigan, Plan Administrator
Respondents

Issued and entered
this 12th day of June 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 26, 2015, [REDACTED] (Petitioner) filed a request for external review with the Department of Insurance and Financial Services, appealing a claim denial issued by Blue Cross Blue Shield of Michigan (BCBSM), the administrator of the Petitioner's health benefit plan which is sponsored by the State of Michigan.

The request for external review was filed under Public Act No. 495 of 2006, (Act 495) MCL 550.1951 *et seq.* Act 495 requires the Director to provide external reviews to a person covered by a self-funded health plan that is established or maintained by a state or local unit of government. The Director's review is performed "as though that person were a covered person under the Patient's Right to Independent Review Act." (MCL 550.1952) The Petitioner's secondary health benefit plan is such a governmental self-funded plan. The plan's benefits are described in BCBSM's *Benefit Guide* for retired state employees.

On June 2, 2015, after a preliminary review of the information submitted, the Director accepted the Petitioner's request. The Director notified BCBSM of the appeal and asked BCBSM to provide the information used to make its final adverse determination. BCBSM furnished its response on June 9, 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 received acupuncture treatment between November 21 and December 12, 2014. The amount charged was \$316.00. BCBSM denied coverage. The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, on April 24, 2015, BCBSM issued a final adverse determination affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's acupuncture treatment?

IV. ANALYSIS

Petitioner's Argument

In his request for external review the Petitioner wrote:

[Acupuncture] being a new benefit and one not covered by Medicare, I felt that I needed to confirm and receive help. I called our services center before receiving any medical help. By verbal contact, I was assured about the new benefit and given instructions on when and how to file a claim. The form needed for this claim was also sent to me from this contact.

After three months and not hearing anything, I called the service center. I was told the claim was received but no information was available. I was told to file an appeal.

* * *

I feel that I have done everything according to the written and verbal guidance given to me. It does not seem possible to deny my claim by using some secret information that was not given to me in writing or verbal.

Respondents' Argument

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

[P]age six of *Your Benefit Guide*...states that acupuncture visits are:

Covered up to a maximum of 20 visits in a calendar year when performed by a licensed physician (MD or DO), or supervised and billed by a licensed physician (MD or DO).

I confirmed that the provider you received acupuncture services from...is not a licensed physician (MD or DO) and the services were not supervised by a licensed physician (MD or DO). Therefore, your acupuncture visits were not covered services and payment cannot be approved.

Director's Review

The Petitioner's acupuncture was provided by [REDACTED], who has the designation "Master of Acupuncture and Oriental Medicine." She is not a licensed physician. There is no evidence that her services were supervised by a licensed physician.

The Petitioner asserts that his claim should not be denied on the basis of "secret information" he was unaware of. The *Benefit Guide* is a document readily available on the BCBSM web site and is the primary document describing benefits for eligible state retirees. Access to the document is not limited.

The Petitioner states that BCBSM should pay for his acupuncture because he was misled to believe that it was a covered benefit. He states that he relied on an October 2014 "Retiree Benefits Bulletin" he was sent which states that acupuncture is covered at 80 percent after deductible. However, the *Benefit Guide* includes more detailed information about the acupuncture benefit including the requirement that the treatment be provided by, or under the supervision of, a licensed physician.

In conducting reviews under the Patient's Right to Independent Review Act, the Director is limited to determining whether an insurer has processed a disputed claim in a manner consistent with the relevant insurance contract, in this case the state retiree's *Benefit Guide*. BCBSM's decision was consistent with that document. The Director finds that BCBSM's denial of coverage was consistent with the terms of the *Benefit Guide*.

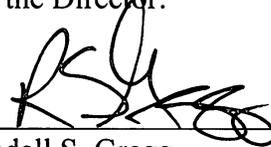
V. ORDER

The Director upholds BCBSM's April 24, 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:



Randall S. Gregg
Special Deputy Director