

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. 148759-001

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 30th day of July 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 10, 2015, ██████████ authorized representative of ██████████ (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.* After a preliminary review of the material submitted, the Director accepted the request on July 17, 2015.

The Petitioner receives health care benefits through a group plan underwritten by Blue Cross Blue Shield of Michigan Mutual Insurance Company (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 July 20, 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 benefits are defined in BCBSM's *Simply Blue HRA Group Benefits Certificate*¹ (the certificate).

In 1994 the Petitioner had cysts removed from her upper jaw. Because she did not have enough bone to support a traditional partial denture, implants and bones grafts were performed to

¹ BCBSM form no. 739C, approved 10/12.

support an upper removable partial denture. The Petitioner still found it difficult to chew and incise her food with her front teeth.

On May 13, 2014, the Petitioner had implants in the area of teeth #5, #6, #9 and #10, sinus augmentation (bone graft) on the right and left areas of the upper jaw, and IV sedation. The charge for this care was \$8,165.00. BCBSM denied coverage, saying the services “do not meet the criteria for payment.”

The Petitioner appealed the denial through BCBSM’s internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination dated May 28, 2015, affirming its decision. The Petitioner’s now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner’s dental services on May 13, 2014?

IV. ANALYSIS

Petitioner’s Argument

In her request for an external review, Petitioner’s authorized representative said:

[The Petitioner] had a lesion of odontogenic keratocysts removed from the maxilla (upper jaw) in 1994. As a result of this procedure, [she] required implants and bone grafts in her maxilla (upper jaw) in order to support a maxillary removable partial denture. Due to her severe bone loss in the maxilla, [the Petitioner] did not have a sufficient amount of bone in her maxilla to support a traditional removable partial denture. This made it extremely difficult for [her] to chew food and impossible for her to incise food with her anterior teeth. Therefore, on May 13, 2014, [she] underwent a procedure to have dental implants and bone grafts placed in the anterior maxilla to support a dental prosthesis. These implants now allow for fabrication of a fixed removable prosthesis, which is medically necessary for [the Petitioner’s] function. [She] is requesting that Blue Cross Blue Shield of Michigan cover this procedure, as it was medically necessary for her to function.

In a letter dated February 23, 2015 to BCBSM, the Petitioner’s oral and maxillofacial surgeon explained:

... [The Petitioner] had four dental implants in addition to bone grafting on May 13, 20[14]. She required additional bone grafting at the time of dental implant placement because her body had resorbed a substantial portion of the previous graft, which was originally placed on May 1, 2013. In order for the implants to support a prosthetic it is imperative that a substantial amount of bone be present

on all surfaces of the implant. Due to the degree of resorption of the previous graft it was necessary to place additional material around the implants to allow for survivability of the implants.

BCBSM's Argument

In its final adverse determination, BCBSM told the Petitioner's authorized representative:

A board-certified D.D.S. in Oral and Maxillofacial Surgery and a Grievance and Appeals Coordinator for Blue Cross Blue Shield of Michigan (BCBSM) reviewed the claim, your appeal request, and [Petitioner's] health care plan benefits. Based on that review, it was determined that [Petitioner's] dental surgery services do not meet the criteria for payment. As a result, we must maintain our denial of payment.

In a position paper submitted for this external review on July 20, 2015, BCBSM further explained:

[The Petitioner] has health care coverage through . . . an underwritten group. The coverage is governed by the *Simply Blue HRA Group Benefits Certificate*. The Certificate explains the dental benefits under the medical certificate, which are very limited. [Her] plan only covers dental services for emergency dental treatment.

Director's Review

The Petitioner's health plan has almost no coverage for dental care.² Coverage is only available for emergency dental care needed because of an accidental injury, for surgery directly related to the temporomandibular joint, and for hospital facility charges and anesthesia when a patient has a medical condition that makes it unsafe for dental treatment to be performed in an office setting.

The certificate's limited dental coverage is described on p. 5.1:

Emergency Dental Treatment

We pay our approved amount for treatment of accidental injuries. An accidental injury is defined as occurring when an external force to the lower half of the face or jaw damages or breaks sound natural teeth, periodontal structures (gum) or bone.

We pay for emergency treatment within 24 hours of the accidental injury to relieve pain and discomfort.

² "Dental; care" is defined in the certificate (p. 7.8) as "Care given to diagnose, treat, restore, fill, remove or replace teeth or the structures supporting the teeth, including changing the bite or position of the teeth."

You must complete follow-up treatment within six months of the accidental injury.

We do not pay for:

- Treatment that was previously paid as a result of an accident
- Dental conditions existing before the accident
- Dental implants and related services including repair and maintenance of implants and surrounding tissue
- Services to treat temporomandibular joint dysfunction. . . .

The Petitioner's need for dental care did not arise from an accidental injury nor was it to treat temporomandibular joint dysfunction. Therefore, the Director concludes that the services she received on May 13, 2014, were not benefits under her plan.

The Petitioner argues that it was medically necessary to have the dental services. But medical necessity alone does not determine if a service is covered. The service must also be a benefit under the plan. In this case the Petitioner's plan does not include coverage for non-emergency dental care, even if medically necessary.

V. ORDER

The Director upholds Blue Cross Blue Shield of Michigan's May 28, 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. McFarlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director

