

**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. 148836-001-SF**

**State of Michigan, Plan Sponsor,**

**and**

**Blue Cross Blue Shield of Michigan, Plan Administrator,**

**Respondents.**

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**Issued and entered**  
**this 5<sup>th</sup> day of August 2015**  
**by Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

[REDACTED] (Petitioner) was denied a benefit by her health care plan. On July 16, 2015, [REDACTED] the Petitioner's father and authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of that denial under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.*

On July 23, 2015, after a preliminary review of the information submitted, the Director accepted the Petitioner's request.

The Petitioner is enrolled for health care benefits through a plan sponsored by the State of Michigan (the plan), a self-funded governmental health plan subject to Act 495. Blue Cross Blue Shield of Michigan (BCBSM) administers the plan. The Director immediately notified BCBSM of the external review request and asked for the information it used to make the plan's final adverse determination. BCBSM responded on July 27, 2015.

Section 2(2) of Act 495, MCL 550.1952(2), authorizes the Director to conduct this external review as though the Petitioner were a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

This case presents an issue of contractual interpretation. 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 described in the State Health Plan's booklet for active employees called *Your Benefit Guide* (the benefit guide).

The Petitioner [REDACTED] has spastic quadriplegic cerebral palsy and scoliosis. She uses a power wheelchair for mobility and needs a wheelchair-accessible vehicle for transportation outside the home.

In September 2014 the Petitioner's parents purchased a van and arranged to have it converted for wheelchair use. Her parents paid for the conversion (\$15,840.00) and then submitted a claim to BCBSM for reimbursement. BCBSM denied the claim.

The Petitioner appealed BCBSM's denial through its internal grievance process. At the conclusion of that process, BCBSM issued a final determination dated May 20, 2015, affirming its denial. The Petitioner now seeks a review of that adverse determination from the Director.

## III. ISSUE

Is BCBSM required to cover the conversion of the family's van for wheelchair use?

## IV. ANALYSIS

### Petitioner's Argument

In a letter filed with their request for an external review, the Petitioner's father wrote:

My daughter . . . was born 12 weeks premature in [REDACTED]. It was evident early on she would have medical difficulties throughout her life. [She] has spastic quadriplegic cerebral palsy, scoliosis, and ADD inattentive type. [She] uses a power wheelchair for mobility and depends on other to care for her and transport her in a wheelchair accessible vehicle. [She] is a very determined young woman and has accomplished many goals in her young life. [She] will be a senior at [REDACTED] University where she is pursuing a bachelor's degree in social work with a minor in Spanish. [She] has been on the dean's list each semester and her current gpa is 3.73. She is also an active member in the community volunteering at a local preschool and at [REDACTED].

In the fall of 2000 we purchased a wheelchair accessible vehicle to transport [the Petitioner]. We filed a claim with Blue Cross Blue Shield (BCBS) for reimbursement of the adaptations to the van. We purchased the van ourselves. We were denied and went through the BCBS appeal process and we were denied again. We later filed an external review through the Department of Insurance and Financial Services. We were denied again. Our last resort was to file a lawsuit against BCBS. We did that in ██████████ County and on June 24, 2002 [the judge] ordered Blue Cross Blue Shield to reimburse us for the cost of the conversion of the van.

In the fall of 2014, we were in need of another wheelchair accessible van. We contacted ██████████ [the conversion vendor] and purchased a vehicle on September 8, 2014. The grand total of the van was \$43,333.49. The cost for the conversion was \$15,840.00. We filed a claim with Blue Cross Blue Shield and we were denied. In May of 2015 we had a managerial level conference and requested that we be reimbursed for the conversion of the van. On May 20, 2015 we received a letter from BCBS stating that the conversion of the van was not a covered benefit. . . .

We again are asking that the conversion of the van be covered. We last asked for and eventually received relief for the van. [The Petitioner] has cerebral palsy, cannot ambulate on her own, and it is necessary that [she] use a van to go to college, attend various doctor appointments, and enjoy life as an abled bodied person does. We believe that the conversion to the van which included a manual lift so that [she] may enter the vehicle is medically necessary. She needs the conversion to be able to access her environment.

### BCBSM's Argument

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

This letter is in response to your appeal and will inform you of the outcome of your managerial-level conference conducted on May 15, 2015. The purpose of the conference was to discuss your request for payment of a van wheelchair lift. After review, the requested service is not a benefit under your health care plan. As a result, payment is not available. The balance of \$15,840.00 remains an issue between you and the provider.

\* \* \*

In your appeal letter, you explained that a June 17, 2002 Order issued by [a] Circuit Court Judge . . . granted your appeal and obligated Blue Cross Blue Shield of Michigan (BCBSM) to pay for the van wheelchair lift purchased in 2000. As such, you requested that BCBSM follow the "precedent" set by the 2002 Order and approve payment for the September 9, 2014 van wheelchair lift.

To clarify, the 2002 Order related only to your appeal brought forth in 2001. The Order does not obligate BCBSM to provide coverage for the purchase of another wheelchair lift.

Director's Review

A van conversion is not specifically mentioned in the benefit guide but if it were to be covered, it would fall under the benefit for durable medical equipment (DME). The benefit guide (p. 81) defines DME:

**Durable medical equipment** is equipment that is able to withstand repeated use, is primarily and customarily used to serve a medical purpose, and is not generally useful to a person in the absence of illness or injury. A physician must prescribe this equipment.

But not all DME is covered. The benefit guide (pp. 53 – 54) describes the benefit:

Your benefit covers durable medical equipment when the equipment is appropriate for home use and prescribed by a physician. . . .

\* \* \*

The following are **not** covered:

- Nonmedical equipment
- Exercise and hygienic equipment
- Comfort and convenience items
- Self-help devices such as elevators
- Deluxe equipment, such as motorized wheelchairs, unless medically necessary and required so the patient can operate the equipment themselves
- Routine maintenance expenses, such as the cost of batteries
- Experimental or investigative equipment

While it is undisputed in this record that a wheelchair-accessible van is necessary for the Petitioner's transportation, DME is only covered for equipment "appropriate for home use." Furthermore, the benefit guide excludes coverage for "nonmedical equipment" and "self-help devices." Based on the language of the benefit guide, the Director concludes and finds that a van conversion is not a covered item of DME under the terms and conditions of the Petitioner's health plan.

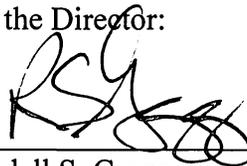
**V. ORDER**

The Director upholds BCBSM's final adverse determination of May 20, 2015.

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 sixty 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:



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Randall S. Gregg  
Special Deputy Director