

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. 148901-001

Blue Cross Blue Shield of Michigan,

Respondent.

Issued and entered
this 19th day of August 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

[REDACTED] (Petitioner) was denied coverage for a health care service by Blue Cross Blue Shield of Michigan (BCBSM). On July 21, 2015, she filed a request with the Director of Insurance and Financial Services for an external review of that denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Director accepted the request on July 28, 2015, after a preliminary review of the information submitted.

The Petitioner receives group health care benefits through the Michigan Education Special Services Association (MESSA), a group plan underwritten by BCBSM. The Director immediately notified BCBSM of the external review request and asked for the information is used to make its final adverse determination. BCBSM submitted the information on August 6, 2015.

The medical issue in this case was evaluated by an independent review organization which provided its analysis and recommendation to the Director on August 11, 2015.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are described in the *MESSA Account-Based Choices (ABC) Plan 1 Plan Coverage Guide* (coverage guide).

On January 9, 2015, the Petitioner had her annual screening mammogram. Because she

exhibited high breast density, her physician recommended magnetic resonance imaging (MRI) as another way to detect possible breast cancer. BCBSM denied the request, saying MRI was not medically necessary.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination dated June 9, 2015, upholding its decision. The Petitioner now seeks review of that final adverse determination from the Director.

III. ISSUE

Did BCBSM correctly deny authorization for the Petitioner's MRI?

IV. ANALYSIS

Petitioner's Argument

In a July 17, 2015, letter filed with her external review request, the Petitioner wrote:

. . . I was approved for a mammogram on January 9, 2015. The results of the mammogram showed a greater than 75% dense breast tissue. Research shows that a mammogram detection of breast cancer or tumors in highly dense breast tissue (over 40%) is like "trying to find a white dove in a fierce blizzard." The detection is impossible. At that time my primary doctor ordered an MRI to do further testing. That MRI was denied by [BCBSM] because there was "not a diagnosis of breast cancer".

As I researched the breast density issue, I read about Public Act 517 of 2014, which is a new law that took effect June 1, 2015.¹ The law discusses breast density and the notification to the patient that they should seek further testing - the MRI was the recommended assessment. My primary doctor did inform me that further testing is necessary and ordered the MRI, but [BCBSM] denied anyway. We have appealed to all levels of the insurance company, which have been denied.

BCBSM's Argument

In its June 9, 2015, final adverse determination, BCBSM explained that it covers MRI (coverage guide, p. 33) but that it denied coverage here because it was not medically necessary to treat the Petitioner:

¹ Public Act No. 517 of 2014, codified at MCL 333.13524, requires mammogram providers to notify patients when dense breast tissue is found, but it does not require a health plan to cover an MRI in those cases.

A board-certified M.D. in Family Practice reviewed all of the submitted documentation and determined:

We have reviewed your appeal regarding the denial of authorization for a breast MRI which your doctor ordered because you have dense breasts. According to the [BCBSM] medical policy "Magnetic Resonance Imaging (MRI) of the Breast," MRI of the breast is considered medically necessary when certain criteria are met. In order to meet these criteria you or a family member must have a known BRCA I or BRCA 2 mutation OR you or a first degree relative must have LiFraumeni syndrome, Cowden syndrome or Bannayan-Riley-Ruvalcaba syndrome OR you must have been identified to be at high risk (lifetime risk about 20% to 25% or greater) of developing breast cancer as identified by models that are largely defined by family history OR you must have received radiation therapy between age 10 and 30. Other criteria include a personal history of breast cancer, use for evaluating the other breast when one breast has a new diagnosis of cancer, use for presurgical planning after diagnosis of breast cancer, use for the detection of breast cancer in those who have cancer in the lymph nodes of the armpit or use for the evaluation of a documented abnormality of the breast prior to obtaining an MRI-guided biopsy when other methods, such as palpation and ultrasound, fail to localize the abnormality. Your doctor ordered the MRI because you have dense breasts. There is no indication that you meet any of the listed criteria. We did not receive any indication that you have a lifetime risk of breast cancer of at least 20% - 25% from your physician. Use of MRI as a screening technique for the detection of breast cancer when the sensitivity of mammography is limited (i.e. for dense breasts) is excluded per this policy. Therefore we cannot approve this request.

Director's Review

The coverage guide, in the "Exclusions and Limitations" section (pp. 44, 45), says:

The following exclusions and limitations apply to the MESSA ABC Plan. These are in addition to limitations appearing elsewhere in this booklet.

* * *

- Services and supplies that are not medically necessary according to the accepted standards of medical practice including any services which are experimental or investigational in nature

To answer the question of whether an MRI is medically necessary to treat the Petitioner, the Director assigned the case to an independent review organization (IRO) for analysis and a recommendation as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is certified by the American Board of Obstetrics and Gynecology, published in peer reviewed literature, and in active clinical practice. The IRO report included the following analysis and recommendation:

Based upon the documentation submitted for review, there is no medical necessity for the breast MRI as the enrollee had a normal screening mammogram that was read as BI-RADS-2 with an annual follow-up mammogram recommended. From review of the medical records provided, there is no documentation suggesting this enrollee is at high risk for breast cancer based on either history or use of a clinical scoring system. First, both MRI and mammography have value in the detection of lesions consistent with breast cancer. In a woman who is [REDACTED] years of age, the sensitivity of mammography (detection of disease with mammography when disease is truly present) is 66.9%. MRI has not been studied in large scale, population based studies that can adequately evaluate the sensitivity of this test. However, the sensitivity of contrast MRI has been reported to be as high as 88-100% for the detection of breast cancers. However, MRI has significant limitations in both (1) limited specificity (exclusion of disease when disease is not present) and (2) high cost. Given the low specificity of the test, excess patients would be exposed to unnecessary follow-up evaluations and associated risk. Thus, the application of MRI based imaging is limited to populations that have a high lifetime risk for breast cancer.

* * *

MRI has also been suggested as a potential mechanism for the isolation for biopsy when the lesion is not visualized by ultrasound. This is not considered a problem according the documentation in this case. Thus, MRI would add little to the diagnostic accuracy in a patient as presented using the available medical records. The enrollee has a normal screening mammogram and would not have been recommended for any MRI screening based upon national guidelines.

The standard of care for a patient who had a BI-RADS-2 mammogram in the prior month would be to have an ongoing annual mammogram. There would be no recommendation for a follow-up MRI in that case. She would have been recommended to have a repeat mammogram in one year from her prior one in January.

* * *

Recommendation:

It is the determination of this reviewer that the denial of preauthorization issued by [BCBSM] for the preauthorization of a magnetic resonance image (MRI) be upheld.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the recommendation is afforded

deference by the Director. In a decision to uphold or reverse an adverse determination, the Director must cite “the principal reason or reasons why the [Director] did not follow the assigned independent review organization’s recommendation.” MCL 550.1911(16)(b). The IRO’s analysis is based on experience, expertise, and professional judgment. In addition, the IRO’s recommendation is not contrary to any provision of the Petitioner’s certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO’s recommendation should be rejected in this case, finds that the requested MRI is not medically necessary, and therefore is not a covered benefit under the terms of the coverage guide.

V. ORDER

The Director upholds BCBSM’s final adverse determination dated June 9, 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 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