

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. 149180-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 4th day of September 2015
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 4, 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.* After a preliminary review of the material submitted, the Director accepted the request on August 11, 2015.

The Petitioner receives health care coverage through a group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Simply Blue Group Benefits Certificate SG*. The Director notified BCBSM of the external review request and asked for the information used to make its final adverse determination. BCBSM provided its response on August 17, 2015.

To address the medical issues presented in this appeal, the Director assigned the case to an independent medical review organization which provided its analysis and recommendation on August 27, 2015.

II. FACTUAL BACKGROUND

The Petitioner has a history of ovarian cancer. Her oncologist recommended biannual PET scans to monitor her condition and requested that BCBSM authorize coverage. BCBSM denied the request. The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process, BCBSM affirmed its denial in a final adverse determination dated July 1, 2015. 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 requested PET scan?

IV. ANALYSIS

Petitioner's Argument

In her request for external review, the Petitioner wrote:

I have ovarian cancer. My oncologist...ordered PET scans on a quarterly basis to monitor my condition. A PET in December 2014 revealed I had a suspicious spot. I have since experienced pain in my upper right abdominal area along with bloating. The PET scan in addition to the CA 125 test is necessary because even with my CA 125 levels being within normal range, my cancer had reappeared previously. I cannot have a CAT scan due to an iodine allergy and am extremely claustrophobic which rules out a full body MRI. Often in patients with ovarian cancer the transition between surveillance and recurrence of disease is extremely uncertain and symptoms are vague. Therefore, waiting for symptoms to appear may be too late for any therapeutic benefit. I request that DIFS reverse [BCBSM's] internal appeal decision to deny coverage for this potentially lifesaving PET scan.

With her request for external review, the Petitioner submitted a letter of medical necessity from her oncologist.

BCBSM's Argument

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

A board-certified M.D. in Internal Medicine reviewed your claim, your appeal, and your health care plan benefits for Blue Cross Blue Shield of Michigan (BCBSM) and determined the following:

"Our review shows that you have a history of ovarian cancer and have undergone treatment, including chemotherapy and surgery in the past. The clinical information also indicates you have been disease free for three years. Your doctor has requested this imaging study to assess for disease recurrence. No new symptoms, no new physical exam findings, or laboratory abnormalities suggesting recurrence are described in the clinical record. Your last PET (positron emission tomography) /CT (computerized tomography) was done in December of last year. You also had an MRI (magnetic resonance imaging) in January of this year. An office note from your physician dated May 19, 2015 indicates there is no evidence of metastatic disease. In summary, the available clinical

information does not support the requested imaging study. BCBSM guidelines for "PET Scan for Oncologic Conditions" were used in part, in making this determination.

Director's Review

The question of whether the requested PET scan was medically necessary in the treatment of Petitioner's condition was presented to an independent review organization (IRO) as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is board certified in gynecologic oncology, has been in active practice for more than 15 years and is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

The member has been followed for recurrent ovarian cancer after her initial diagnosis in 2009. The member underwent re-exploration in 2012 with resection of recurrent disease on the diaphragm. The member had borderline normal CA125 titers at that time, but PET CT scan results suggested recurrent disease. Since that time, the member has been followed with PET CT scans on a biannual basis. The member is intolerant of IV contrast for routine CT scans and has issues with claustrophobia making closed MRI scans difficult according to the information provided for review. However, the member's latest PET CT scan in December 2014 was followed by abdominal MRI to better visualize a suspicious area near her liver. This MRI did not reveal metastatic disease and the member has been clinically followed with no evidence of disease as recently as May 2015. A request has been made for repeat PET CT scan consistent with her biannual surveillance.

[T]he surveillance of recurrent ovarian cancer with a multitude of imaging studies has been based on the clinical indication for the particular study. [Citation omitted.] PET CT scan itself has been called into question and its utility in the timing of retreatment, particularly in the setting of secondary cytoreduction lacks robust data with Level 2B evidence cited. [Citation omitted.] However...if the member has documented allergy to iodine that is prohibitive of a contrast CT and is not able to obtain open MRI for follow-up of her suspicious liver disease, then PET CT scan would be the only reasonable modality to provide surveillance....[U]ltrasound of the liver would be insufficient to detect occult disease as evidence by the member's recurrence in 2012.

Pursuant to the information set forth above and available documentation...the requested PET scan is medically necessary for diagnosis and treatment of the member's condition.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the IRO's 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 extensive experience, expertise, and professional judgment. In addition, the IRO 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 PET scan is medically necessary, and is therefore a covered benefit under the certificate.

V. ORDER

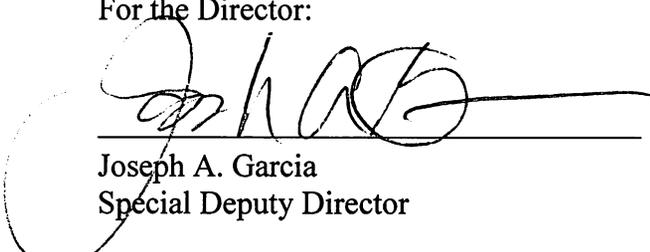
The Director reverses BCBSM's final adverse determination of July 1, 2015. BCBSM shall immediately provide coverage for the Petitioner's quarterly PET scans. See MCL 550.1911(17). BCBSM shall, within seven days of providing coverage, submit to the Director proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding its implementation to the Department of Insurance and Financial Services, Health Care Appeals Section, by calling toll free: 877-999-6442.

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:



Joseph A. Garcia
Special Deputy Director