

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████
Petitioner,

v

Blue Cross Blue Shield of Michigan,
Respondent,

File No. 149973-001

Issued and entered
this 9th day of October 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On September 21, 2015, ██████████ on behalf of her minor son ██████████ (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 September 28, 2015.

The Petitioner receives health care coverage through a group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Director notified BCBSM of the request and asked for the information used to make its final adverse determination. BCBSM provided its response on October 2, 2015.

The issue in this external review can be decided by a contractual review. 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 defined in BCBSM's *Community Blue Group Benefits Certificate SG* (the certificate).

From April 17, 2015 through July 8, 2015, the Petitioner received in-home mental health services provided by Behavioral Case Management. BCBSM denied coverage for this care because the provider does not participate with BCBSM. The amount charged for this care was \$2,435.00.

The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of the process BCBSM affirmed the denial and issued a final adverse determination dated August 24, 2015. The Petitioner then sought a review of that determination by the Director.

III. ISSUE

Did BCBSM correctly deny the Petitioner's mental health services provided by Behavioral Care Management?

IV. ANALYSIS

Petitioner's Argument

The Petitioner's mother stated in the request for an external review:

My [redacted] year old son was diagnosed with a severe sudden onset of OCD [Obsessive-Compulsive Disorder] due to an immune deficiency causing brain inflammation. He was completely debilitated. Traditional CBT [Cognitive Behavioral Therapy] wasn't working. We could not get him there. When we did get him there he was unable to effectively participate. That therapist even told us traditional therapy wasn't working. We needed a therapist to come to us, it was the only way my son was going to get the help he needed.

The Petitioner's parents also stated in a letter dated September 4, 2015.

Please accept this letter as documentation that our son [the Petitioner] desperately needs the services of Behavioral Care Management. Not everyone can get out of the house and seek treatment. Certain ailments can be severely debilitating. We know firsthand as this happened to our son. One day he is this vibrant, smart, athletic, social 13 year old and then next day he is gone. Mentally gone. He began having extreme OCD behaviors and then turned into severe behavioral issues. He progressively regressed and began having seizures, tics and uncontrolled body movements. He was terrified. He had no clue what was happening to his body. He couldn't control himself. He eventually became so frustrated that he became violent and threatened to commit suicide. He was hospitalized in a child and adolescent hospital. My child has not been the same since. His OCD was so bad that he literally could not get up and move. We had to carry him from room to room, up and downstairs, in and out of the house. He couldn't bathe or shower or use the toilet. He would get so fearful that he would literally get up and run-a way and get lost. His seizures were the worst thing I have ever seen. He would not know what during his

seizure. He got so bad he could not attend school anymore. We could not leave him alone for a second.

We were directed to call Behavioral Care Management. They are in home therapists for people who cannot get out and be successful with traditional therapy. Their goal is to intervene in crisis situations such as ours and help prevent these homebound people from being hospitalized. Their number one goal is to heal these people and teach them how to cope with their illness and become productive individuals in our society. Secondly, it is their goal to help keep these people from being hospitalized for months at a time when they don't need to be hospitalized. This in home method of therapy is not only humane but it is cost effective to insurance companies as well. The cost of hospitalizing these helpless individuals is astronomical compared to the services of having an in-home therapist 2-3 times a week. If people are hospitalized, that doesn't mean that when they get out they are done with therapy. They still need to seek therapy treatment after their hospitalization to maintain their coping skills.

It makes sense medically and financially to utilize Behavioral Care Management as a first attempt at healing instead of immediately racking up extremely high hospital bills. In a nut shell, we are strongly requesting the Appeals Board reverse BCBS decision to deny payment of services to Behavioral care Management.

Respondent's Argument

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

[The Petitioner] is covered under the Community Blue Group Benefits Certificate SG. Section 3: *What BCBSM Pays For* under Mental health Services (Pages 57-60) explains that mental health services are payable in the following locations:

Locations: We pay for mental health services in an inpatient or outpatient hospital, an approved inpatient facility, a participating residential psychiatric treatment facility, in a physician's, fully licensed psychologist's or CLMSW's [Certified Licensed Master of Social Worker] office, and an outpatient facility subject to the conditions described below.

Our records show that Behavioral Care Management is classified as an outpatient psychiatric facility. Page 59 of the certificate states:

Outpatient Mental Health Services

Services in an outpatient mental health facility are payable only when that facility provides and bills for them is a participating facility (see page 22 for special rules that apply to autism disorders.) Outpatient mental health services also payable in an office setting (as applicable).

After review, I confirmed that Behavioral Care Management is a nonparticipating provider. Under Section 7: Definitions (Page 158), the certificate defines a nonparticipating provider as:

Nonparticipating Provider

Physicians and other health care professionals, or hospital and other facilities or programs that have not signed a participating agreement with BCBSM to accept the approved amount as payment in full. Some nonparticipating providers, however, may agree to accept the approved amount on a per claim basis.

During your managerial-level conference, you explained that [the Petitioner] did not receive any benefit from traditional therapy, but has made progress with the in home treatment he has received with Behavioral Care Management. While I understand your concerns, as a Grievance and Appeals Coordinator for [BCBSM] it is my responsibility to ensure that the claims at issue processed according to Plan Design. Because your health care plan does not pay for mental health services rendered by a nonparticipating provider, I cannot make an exception on your behalf. You remain liable for the non-covered charges totaling \$2,435.00.

Director's Review

The Petitioner's certificate covers mental health services in an inpatient or outpatient hospital, an approved inpatient facility, a participating residential psychiatric treatment facility, in a physician's, fully licensed psychologist's, or CLMSW's office and in an outpatient facility that participates with Blue Cross Blue Shield.

The Petitioner's mental health care that is the subject of this review was provided by Behavioral Care Management, which is classified as an outpatient psychiatric facility. There is nothing in the information provided that indicates that Behavioral Care Management is a BCBS participating provider. Therefore, its services are not a covered benefit under the certificate.

The Director understands that the Petitioner's parents have indicated that the in home services provided to their son by Behavioral Care Management has been beneficial. However, BCBSM is only required to pay for care that is a covered benefit.

The Director finds that BCBSM's denial of the services provided by Behavioral Care Management is consistent with the terms of the certificate.

V. ORDER

The Director upholds BCBSM's August 24, 2015 final adverse determination. BCBSM is not required to cover the services provided to the Petitioner by Behavioral Care Management from April 17, 2015 to July 8, 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 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