

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. 150072-001

Blue Cross Blue Shield of Michigan,

Respondent.

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Issued and entered  
this 28<sup>th</sup> day of October 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

██████████ (Petitioner) ordered diabetic supplies from an out-of-network, nonparticipating provider. The supplies are a covered benefit under her group health plan, underwritten by Blue Cross Blue Shield of Michigan (BCBSM), but the Petitioner found she was responsible for the entire cost of the supplies.

On September 28, 2015, the Petitioner filed a request with the Director of Insurance and Financial Services for an external review of BCBSM's claim processing decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On October 5, 2015, after a preliminary review of the information submitted, the Director accepted the Petitioner's request.

The Director immediately notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. BCBSM furnished its response on October 12, 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 benefits are described in BCBSM's *Simply Blue HSA Group Benefits Certificate with Prescription Drugs LG*<sup>1</sup> (the certificate).

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<sup>1</sup> BCBSM form no. 781E, approved 08/14.

The Petitioner is a type 1 diabetic. On December 19, 2014, she obtained supplies for her insulin pump from Animas Corporation (Animas), an out-of-network, nonparticipating provider. The charge was \$857.50. BCBSM's approved amount for the supplies was \$14.46 and it applied that amount to the Petitioner's unmet out-of-network deductible for 2014. Animas subsequently billed the Petitioner for the entire \$857.50.

The Petitioner appealed BCBSM's benefit determination through its internal grievance process. At the conclusion of the process, BCBSM affirmed its decision in a final adverse determination dated September 2, 2015. The Petitioner now seeks a review of that final adverse determination by the Director.

### III. ISSUE

Did BCBSM correctly process the claim for the Petitioner's diabetic supplies?

### IV. ANALYSIS

#### Petitioner's Argument

In her request for an external review, the Petitioner explained her grievance:

Since being diagnosed as a Type I diabetic in 2008, I had always used Animas Corporation for my pump and pump supplies. In December 2014, I requested my pump supplies from Animas and received them per normal. At no time during the ordering process was I informed that they were out of network with Blue Cross. In approximately March 2015 I received notification from Animas that I owed them \$857.50 for the supplies. Thinking there was some sort of error, I contacted Animas and I was informed for the first time that they were no longer in-network with Blue Cross and I would have to pay for the supplies.

I sent in my reimbursement claim form to Blue Cross only to receive notification that I would not be reimbursed for this expense. I would like to request a one-time exception for this specific case asking that Blue Cross treat it as an in-network claim. I have since found a company that is in-network so this will not be an issue in the future.

Again, no supplies would have been ordered from Animas Corporation if it had been known they were no longer in-network with Blue Cross. I had ordered my supplies from Animas Corporation for years and they had always been in network. There was no reason for me to think anything had changed.

#### Respondent's Argument

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

. . . After review, our decision is maintained and you remain responsible for your out-of-network deductible amount of \$14.46. Also, the remaining balance of \$843.04 remains a matter between you and the provider.

You are covered under the *Simply Blue HSA Group Benefits Certificate with Prescription Drugs LG*. On page 121 of your Certificate, under **Section 4: How Providers Are Paid, Out-of-Network Providers, Nonparticipating Physicians and Other Providers** it states:

If the out-of-network provider is nonparticipating, you will need to pay most of the charges yourself. Your bill could be substantial. Because nonparticipating providers often charge more than our approved amount, our payment to you may be less than the amount charged by the provider.

*Rider SBD-HSA-D 200014000-IN, 4000/8000-0N LG Simply Blue HSA Deductible Requirement* amends your Certificate to increase your annual out-of-network deductible requirement to \$8,000 for a family contract.

I confirmed that on the referenced date of service, your out-of-network deductible requirement was not satisfied. Therefore, the Blue Cross Blue Shield (BCBS) allowed amount of \$14.46 properly applied to your deductible requirement. While I understand your concerns, I confirmed that Animas Corporation is a nonparticipating, out-of-network provider. Therefore, the difference between the provider's total charge and the BCBS approved amount totaling \$843.04 is a matter between you and the provider.

### Director's Review

During the pendency of this external review, BCBSM reviewed the Petitioner's claim and concluded that it had processed it incorrectly. BCBSM decided that the claim should be processed as an in-network service.

According to the certificate (p. 15), BCBSM pays its "approved amount" for covered services. "Approved amount" is defined in the certificate (p. 144) as

[t]he lower of the billed charge or our maximum payment level for the covered service. Copayments and/or deductibles, which may be required of you, are subtracted from the approved amount before we make our payment.

After review, BCBSM decided its maximum payment level for the diabetic supplies obtained by the Petitioner was \$723.00, not \$14.46. Therefore, \$723.00 became BCBSM's approved amount because it was less than the billed charge of \$857.50. Because the Petitioner's out-of-pocket maximum had been reached for calendar year 2014 at the time she purchased the diabetic supplies, BCBSM says it will pay \$723.00 directly to the Petitioner.

However, Animas is both an out-of-network and a nonparticipating provider and has not agreed to accept BCBSM's approved amount of \$723.00 as payment in full for the supplies. The certificate (p. 8) says:

Outside of the PPO network, a provider can either be participating or nonparticipating. Participating providers have agreed to accept our approved amount plus your out-of-network deductible and coinsurance as payment-in-full for covered services. Nonparticipating providers have not signed an agreement and can bill you for any differences between their charges and our approved amount. [Underlining added]

As a nonparticipating provider, Animas has not agreed to accept \$723.00 as payment in full for the diabetic supplies and thus may bill the Petitioner for the balance of its charge (\$134.50).

Now that BCBSM has reprocessed the Petitioner's claims, the Director finds that it has correctly determined benefits for the Petitioner's December 19, 2014, diabetic supplies consistent with the terms of the certificate.

#### V. ORDER

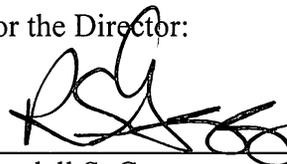
The Director modifies BCBSM's September 2, 2015, final adverse determination. BCBSM shall reimburse the Petitioner \$723.00 for her December 19, 2014, diabetic supplies.

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:



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Randall S. Gregg  
Special Deputy Director