

**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. 150643-001**

**Blue Cross Blue Shield of Michigan,**

**Respondent.**

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Issued and entered  
this 2<sup>nd</sup> day of December 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

██████████ (Petitioner) was denied coverage for a diagnostic laboratory test by his health care insurer, Blue Cross Blue Shield of Michigan (BCBSM).

On October 30, 2015, ██████████, MD, the Petitioner's authorized representative, 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.* On November 6, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits through a group plan that is underwritten by BCBSM. 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 the information on November 13, 2015.

The case involves medical issues so it was assigned to an independent review organization which submitted its recommendation on November 18, 2015.

**II. FACTUAL BACKGROUND**

The Petitioner's health care benefits are defined in BCBSM's *Simply Blue HSA Group Benefits Certificate with Prescription Drugs LG<sup>1</sup>* (the certificate).

The Petitioner was recently diagnosed with diabetes but it was unclear if he had type 1 or type 2.

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<sup>1</sup> BCBSM form no. 781E, approved 2/15.

To make the determination, his physician ordered an islet cell antibody test (CPT code 86341). It was performed on July 21, 2015; the charge was \$228.22.

BCBSM denied coverage, saying the test was experimental or investigational for the Petitioner's condition and therefore not a benefit. The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination dated September 15, 2015, affirming its denial. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Was the islet cell antibody test experimental or investigational for the treatment of the Petitioner's condition?

### IV. ANALYSIS

#### Petitioner's Argument

In the request for external review the Petitioner's authorized representative said:

Anti-GAD antibody testing was ordered to determine if [the Petitioner] has autoimmune diabetes - LADA [*latent autoimmune diabetes in adults*] and would need to be treated with insulin or if he has type 2 diabetes and would not. 5-10% of patients labeled as type 2 diabetics actually have LADA and need insulin therapy.

The Petitioner's physician, in an August 14, 2015, letter to BCBSM, also said:

I had a concern that he may in fact have type I diabetes and that he should not discontinue his insulin. In the end, I chose to do this testing because it has been described that 5% to 10% of patients who are initially classified with type 2 in fact have latent autoimmune diabetes of adulthood and should be treated with insulin as opposed to transitioning him to oral hypoglycemic agents.

#### BCBSM's Argument

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

... After review, I confirmed that our denial of payment must be maintained.

The BCBSM / BCN Joint Uniform Policy Committee (JUMP) has determined that the islet cell antibody laboratory service (procedure code 86341) is experimental / investigational. Experimental / investigational services are not a benefit of [the Petitioner's] coverage. Therefore, payment is not available.

\* \* \*

To give the appeal full consideration, a board-certified D.O. in Internal Medicine reviewed [the Petitioner's] claim, the appeal, and his health care plan benefits for [BCBSM]. The review determined:

You are appealing the denial of payment for a test to confirm the diagnosis of Type 1 Diabetes. According to BCBSM medical policy-"Islet Cell Antibody Testing", although this test is sensitive and accurate predictor of risk for progressive to overt diabetes, the test has no clinical utility as there are no effective intervention to arrest the underlying disease process. Therefore, this test is considered investigational and we are unable to approve.

### Director's Review

The certificate (p.137) says, "We do not pay for experimental treatment." "Experimental treatment" is defined in the certificate (p. 155) as, "Treatment that has not been scientifically proven to be as safe and effective for treatment of the patient's conditions as conventional treatment. Sometimes it is referred to as 'investigational' or 'experimental services.'"

The question of whether an islet cell antibody test is experimental or investigational for assessing the treatment of Petitioner's condition was presented to an independent review organization (IRO) for analysis 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 internal medicine and endocrinology and has been active practice for more than ■ years. The IRO report included the following analysis and recommendation:

#### **Recommended Decision**

The MAXIMUS physician consultant determined that the antibody testing (procedure code 86341) performed on 7/21/15 was not experimental / investigational for diagnosis and treatment of the member's condition.

#### **Rationale:**

\* \* \*

The member's treating physician was unsure of whether he had type 1 or type 2 diabetes mellitus. The MAXIMUS physician consultant explained that while there is no one test that will clinch the diagnosis of type 1 or type 2 diabetes, it is standard of care to check a GAD antibody panel to see if these are present. The physician consultant noted that if GAD antibody antibodies are present, a patient has type 1 diabetes until proven otherwise and if negative, the patient usually has type 2 diabetes and a trial of insulin with oral agents is reasonable. The note from the member's 7/21/15 visit to his treating provider points out that there are features of type 2 in that he is overweight and features of type 1 in that there was a lack of a strong family history of type 2 diabetes present. The consultant indicated that therefore the results of the test could help sway the diagnosis towards type 1 or type 2 diabetes and it was reasonable to perform this testing in this case.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the antibody testing (procedure code 86341) performed on 7/21/15 was not experimental / investigational for diagnosis and treatment of the member's condition. [Citations omitted].

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 extensive 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 islet cell antibody test on July 21, 2015 was not experimental or investigational for treatment of the Petitioner's condition and is therefore a covered benefit under the terms of the certificate.

#### V. ORDER

The Director reverses BCBSM's final adverse determination of September 15, 2015. BCBSM shall immediately cover the Petitioner's islet cell antibody test and shall, within seven days of providing coverage, furnish the Director with proof it has complied with 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, at this toll free telephone number: (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:



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Randall S. Gregg  
Special Deputy Director