

**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. 150675-001**

**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 dissatisfied with the decision of her health insurer, Blue Cross Blue Shield of Michigan (BCBSM), to apply cost sharing to an ultrasound, a procedure she thought should be completely covered by her health plan.

On November 2, 2015, the Petitioner filed a request with the Director of Insurance and Financial Services seeking an external review of that decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the request on November 9, 2015.

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 provided its response on November 17, 2015.

The issue in this external review can be decided by a contractual analysis. 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 *Simply Blue Group Benefits Certificate LG*<sup>1</sup> (the certificate). *Rider SBD-IN \$1500 / \$3000 LG Simply Blue Deductible Requirement for In-Network Services* (the rider) amended the certificate to increase the annual deductible for covered

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<sup>1</sup> BCBSM form no. 778E, effective 2015.

services by in-network providers to \$1,500 for a one member contract or \$3,000 for a family contract.

The Petitioner had an intrauterine device (IUD) inserted on June 2, 2015, by an in-network provider. As part of that procedure she also had both a pelvic ultrasound (CPT code 76856)<sup>2</sup> and a transvaginal ultrasound (CPT code 76830). BCBSM covered the transvaginal ultrasound but applied its approved amount (\$186.57) to the Petitioner's annual deductible for in-network services.

The Petitioner, believing there should be no cost sharing for the transvaginal ultrasound, appealed BCBSM's decision through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated October 7, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did BCBSM correctly apply its approved amount for the transvaginal ultrasound to the Petitioner's deductible?

### IV. ANALYSIS

#### Petitioner's Position

In a letter filed with the external review request, the Petitioner wrote:

I was told by Woman's Integrated Health that the IUD insertion process included initial insertion and a surveillance exam to ensure the IUD was properly inserted, so as not to cause secondary health issues. Based on BCBS coverage, the insertion process is 100% covered. Under Mirena's<sup>3</sup> Prescribing Information document . . . it states, "If you suspect that Mirena is not in the correct position, check placement (for example, using transvaginal ultrasound)." Again, this [is] indication that an ultrasound is part of the insertion process and should be 100% covered by BCBS since it is listed under the Insertion Instructions. I am getting billed by Women's Integrated Health for \$186.57 for an ultrasound that should be 100% covered by BCBS as it is a necessary part of the insertion process.

#### BCBSM's Position

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

. . . I must maintain denial of payment for procedure code 76856. . . . Under your contract, the reported procedure is not covered when reported with the diagnosis V25.42

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<sup>2</sup> BCBSM denied coverage for the pelvic ultrasound but the Petitioner's doctor did not bill her for it so she did not appeal the denial.

<sup>3</sup> Mirena is the brand name of the IUD.

(intrauterine contraceptive device). . . . As a result, you remain liable for the \$186.57 that applied to your deductible.

You are covered under the *Simply Blue Group Benefits Certificate LG*. As stated on page 78 of your *Certificate* under Preventive Care Services, we pay for the contraceptive device and for the insertion and removal of the device. We do not pay for screening services other than the ones listed in the certificate. Ultrasounds are not listed as payable preventive services.

This is supported by the Blue Cross Blue Shield of Michigan Benefit Package Report for your group which states procedure code 76856 (Ultrasound; pelvic (nonobstetric) is not covered when reported with the diagnosis code V25.42 (intrauterine contraceptive devices).

Page 75 of your certificate, under **Section 3: What BCBSM Pays For**, states “to see a list of the preventive benefits and immunizations that are mandated by the Patient Protection and Affordable Care Act (PPACA), you may go to the following website: [www.HealthCare.gov/center/regulations/prevention.html](http://www.HealthCare.gov/center/regulations/prevention.html). You may also contact BCBSM customer service.” Ultrasounds are not a listed preventive service and therefore, your deductible applied correctly for procedure code 76830 (ultrasound, transvaginal).

While I understand your concern regarding this liability for these services, we must process claims as they are submitted to us by our participating providers. I am able to make an exception on your behalf.

### Director’s Review

The certificate, under “Section 3: What BCBSM Pays For,” has this provision (pp. 75, 78):

Deductibles and coinsurance are not required for these services when performed by an in-network provider.

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- **Women’s Preventive Care Contraceptive Services**

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- Contraceptive Devices

- We pay for a contraceptive device requiring a prescription by a physician, certified nurse midwife, or other legally authorized professional provider and for the insertion and removal of a device by a physician, certified nurse midwife, or other eligible provider.

Ultrasounds are not preventive care services per se so it is understandable that BCBSM did not include them on its list of preventive care services. However, an ultrasound may be an integral part of a preventive care service that is otherwise required to be covered with no cost sharing by the federal Patient Protection and Affordable Care Act, as are contraceptive methods and counseling.

In this case, the ultrasound was performed in conjunction with the insertion of a prescription IUD. BCBSM has not argued that the ultrasound was not medically necessary as part of that procedure and the Director has no basis in this record for second-guessing the Petitioner's physician's medical decision.

Consequently, the Director finds that the transvaginal ultrasound must be covered with no cost sharing as part of a preventive care service.

**V. ORDER**

The Director reverses BCBSM's final adverse determination of October 7, 2015.

BCBSM shall immediately cover the Petitioner's transvaginal ultrasound with no cost sharing and shall, within seven days of providing coverage, furnish the Director with proof that it has complied with this Order.

To enforce this Order, the Petitioner may report any complaint regarding compliance to the Department of Insurance and Financial Services, Health Care Appeals Section, at this toll-free 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