

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. 151278-001

Blue Cross Blue Shield of Michigan,

Respondent.

Issued and entered
this 30th day of December 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was dissatisfied with the decision of his health care insurer, respondent Blue Cross Blue Shield of Michigan (BCBSM), when it processed claims for an office visit and related allergy tests.

On December 11, 2015, the Petitioner filed a request with the Director of Insurance and Financial Services for an external review of BCBSM's decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On December 18, 2015, after a preliminary review of the information submitted, the Director accepted the request.

The Director immediately notified BCBSM of the external review request and asked for the information it used to make its final adverse determination. The Director received BCBSM's response on December 21, 2015.

This case presents issues of contractual interpretation. 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

At the time he received the services at issue in this case, the Petitioner's health care benefits were defined in BCBSM's *Simply Blue Group Benefits Certificate LG*¹ (the certificate).

¹ BCBSM form no. 778E, effective 2015.

The certificate is amended by *Rider SBD-IN \$2500 / \$5,000 LG Simply Blue Deductible Requirement for In-Network Services* (the deductible rider) and *Rider SB-TCP \$40 / \$60 / \$60 / \$250 LG Simply Blue Tiered Copayment Plan* (the copayment rider).

On April 6, 2015, the Petitioner had an office visit and related allergy testing services at a provider in Texas where the Petitioner lives. The provider participates with a local Blue Cross Blue Shield plan in Texas so the treatment was considered to be in-network.

BCBSM's applied a \$60.00 copayment to the office visit and applied its approved amount for the allergy test (\$421.74) to the Petitioner's in-network deductible.

The Petitioner believes he should not be responsible for the deductible. He appealed BCBSM's decision through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated November 3, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did BCBSM correctly apply a deductible to the services the Petitioner received on April 6, 2015?

IV. ANALYSIS

Petitioner's Argument

In a letter dated December 5, 2015, included with the external review request, the Petitioner wrote:

For my service provider and me, this is very simple. During their conversation with BCBS of Michigan, my service provider was mistakenly informed that the allergy testing procedure would be covered by my insurance, except for my \$60 co-pay.

When I first contacted BCBS of Michigan, the representative informed me that the code used on my file that was given to my service provide[r] indicated the same as represented above.

After numerous attempts to get this clarified - over several months - I finally received the attached letter from BCBS of Michigan.

I hope that you understand my position. I always ask my service provide[r] if I'm going to owe anything above and beyond my co-pay. This has always been my process with all services providers.

I was informed that the procedures are covered. This was because of the code used during my service provider's conversation with BCBS of Michigan.

BCBSM's Argument

In its final adverse determination, BCBSM explained its position to the Petitioner:

. . . After review, I must maintain the payment level for the services. Allergy testing services are subject to your in-network deductible. Because you had not met your annual in-network deductible at the time of the service, the approved amount applied to it. As a result, you remain liable for the deductible amount of \$421.74, in addition to the contractual copayment of \$60.00, totaling \$481.74.

You are covered under the *Simply Blue Group Benefits Certificate LG*. . . . Page 9 of your *Certificate* under **Section 2: What You Must Pay**, states that "you are required to pay [a] deductible each calendar year for covered services pro by in-network providers." Page 11 of your *Certificate* states that "in addition to your in-network and out-of-network deductibles, you are required to pay in-network and out-of-network copayment and coinsurance amounts for covered services."

Rider SBD-IN \$2500/\$5000 LG Simply Blue Deductible Requirement for In-Network Services amends your Certificate to increase your in-network deductible for a family contract to \$5,000 for each benefit year. At the time of the service, your annual in-network deductible had not yet been met.

Rider SB-TCP \$40/\$60/\$60/\$250 LG Simply Blue Tiered Copayment Plan amends your Certificate to change the copayment requirement to \$60.00 for each in-network office visit and consultation with a "specialist."

I have reviewed the telephone call and the notes your provider's office made to BCBSM on April 13, 2015. After review of the phone call, the Customer Service Representative (CSR) stated that all services are reviewed based on the procedure code that is billed, the diagnosis code, and the medical necessity of the service. In addition, the CSR also added that allergy injections would be covered, but subject to your in-network deductible and coinsurance. Your provider billed procedure code 95004 (Percutaneous Tests (Scratch, Puncture, Prick) With Allergenic Extracts, Immediate Type Reaction, Including Test Interpretation And Report). This service is subject to your contractual cost share. As a result, the in-network deductible applied appropriately, and you remain responsible for the deductible amount of \$421.74.

I understand your concern regarding your liability for this service. However, we must administer benefits in accordance with terms and conditions of your coverage. As a result, I am unable to make an exception on your behalf.

Director's Review

The Petitioner had two in-network services on April 6, 2015: An office visit (CPT code 99215) and an allergy test (CPT code 95004). He understood that the office visit would be subject to a \$60.00 copayment. However, he believes he should not be responsible for the

deductible for the allergy test (\$421.74) because his provider was misinformed by a BCBSM customer service representative. However, BCBSM disputes the Petitioner's contention that the provider was given wrong information; it says the provider was told that the allergy test would be subject to the deductible.

In any event, it is the certificate and its riders that determine how benefits are paid. The Director, in a review under the Patient's Right to Independent Review Act, does not have the authority to alter the terms of coverage based on an assertion that a provider was given incorrect information.

The certificate (p. 10) explains that the in-network deductible will be imposed for most covered services with some exceptions. But allergy tests are not in the list of exceptions. The certificate also says, "Covered services performed in an in-network physician's office during an office visit will be subject to the annual deductible requirement." Therefore, the allergy test is subject to the in-network deductible that is established in the deductible rider.

The Director concludes that BCBSM correctly processed the claim for the allergy test when it applied its approved amount for the test to the Petitioner's in-network deductible.

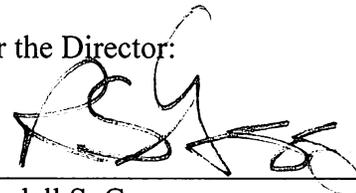
V. ORDER

The Director upholds BCBSM's final adverse determination of November 3, 2015.

This is a final decision of an administrative agency. 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. See MCL 550.1915(1). 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