

**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. 151461-001**

**Blue Cross Blue Shield of Michigan**  
**Respondent**

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**Issued and entered**  
**this 17<sup>th</sup> day of February 2016**  
**by Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On December 23, 2015, ██████████, authorized representative of ██████████ (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 (PRIRA), MCL 550.1901 *et seq.* The appeal involved a denial of benefits for residential mental health treatment.

The Petitioner receives health care benefits through a group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). Magellan Behavioral of Michigan, Inc. administers the plan's mental health and substance abuse benefits for BCBSM. The benefits are defined in BCBSM's *Simply Blue HSA Group Benefits Certificate with Prescription Drugs SG*.

On January 6, 2016, after a preliminary review of the material submitted by the Petitioner, the Director concluded that the request was not timely filed. The case was not accepted for review. See section 11(1) of the PRIRA, MCL 550.1911(1).

On January 14, 2016, the Petitioner requested reconsideration, stating that BCBSM and Magellan had provided conflicting appeal information. The Director confirmed the Petitioner's statement and, on January 21, 2016, accepted the case for review. The Director notified BCBSM of the external review request and asked for the information used to make its adverse determination. The Director received BCBSM's response on January 27, 2016.

To address the medical issues, the Director assigned this case to an independent review organization which provided its analysis and recommendation on February 4, 2016.

## II. FACTUAL BACKGROUND

The Petitioner has a history of post traumatic stress disorder, anxiety, depression, anorexia, bulimia and alcohol abuse. From February 18, 2015 through March 2, 2015, the Petitioner received residential treatment for mental health and substance abuse at [REDACTED] in Lemont, Illinois. Magellan approved coverage through February 26, 2015 but denied coverage beyond that date.

The Petitioner appealed the denial through the BCBSM/Magellan internal grievance process. Magellan issued a final adverse determination dated July 22, 2015, affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

## III. ISSUE

Did Magellan correctly deny coverage for the Petitioner's residential treatment at Timberline for February 27, 2015 through March 2, 2015 as not medically necessary?

## IV. ANALYSIS

### Respondent's Argument

In the final adverse determination to Petitioner's physician, Magellan wrote:

This review was conducted by our physician advisor, a board certified psychiatrist, who has determined that the following days cannot be approved as medically necessary based upon 2015 Magellan Healthcare, Inc. Medical Necessity Criteria Guidelines for adult substance abuse residential treatment ("Residential Treatment, Substance-Related Disorder, Adult") for the following reason(s):

#Days	From	To
<b>Four (4)</b>	<b>February 27, 2015</b>	<b>March 2, 2015</b>

The Magellan Medical Necessity Criteria Guidelines for residential substance use disorder treatment are not met beginning February 27, 2015. The member did not show evidence of continuing to require 24-hour per day, 7-day per week supervision, intervention, and treatment in a therapeutic facility for addiction recovery needs. There is no reported evidence that the member could not maintain continued abstinence while in treatment in an outpatient treatment setting. The member did not have any reported medical or psychiatric conditions that would have rendered treatment unsafe on an outpatient basis. There was no report that the member's home or social support environment would not have supported substance use disorder treatment in an outpatient level of care....

[B]ased on the information provided, coverage for the dates referenced above cannot be approved because it is not medically necessary. Under the terms, conditions and limitations of your Blue Cross Blue Shield of Michigan contract, a service must be medically necessary to be covered. Medically necessary means that safe and adequate care cannot be provided in a less restrictive setting.

### Petitioner's Argument

The Petitioner's husband submitted a letter dated September 15, 2015 describing the Petitioner's medical history and her need for inpatient treatment in February and March 2015. Regarding the termination of coverage for inpatient treatment after February 26, 2015, he wrote:

The early discharge was paramount in her return to negative and abusive behavior. Financially, we were already at a severe deficit after funneling every available dollar to her recovery, while simultaneously trying to maintain a household and support the family.

[Petitioner] remained 'clean' for 20 days after discharge from [REDACTED], regularly attending AA meetings and two Outpatient Therapists. On the 21<sup>st</sup> day, with one drink, all of that came to an abrupt end. Soon after, I implemented a friends' suggestion and had a breathalyzer installed in her vehicle, at great expense, to protect her and the rest of the world. Today, we continue to grapple with how to proceed in finding recovery for her.

In a letter dated April 2, 2015, Petitioner's primary care physician wrote:

[Petitioner] has been my patient since 11/12/2012. Her main issues are Panic Disorder, alcohol abuse, Generalized Anxiety Disorder, Major Depressive Disorder, and ADHD. This was diagnosed by her psychiatrist on 09/17/2014. Her first hospitalization was on 7/23/2014. Patient staying in the hospital for one night with a blood alcohol level of .266 and was discharged the next day. Since then she had 3 visits to the emergency room and two overnight stays. She was in [REDACTED] of Livonia for 5 days, and [REDACTED] for 7 days.

Since [Petitioner] has been my patient, I have tried many antidepressants, mood stabilizers, and anxiolytics, to no avail. I feel she has an underlying Bipolar Mixed disorder concurrent with an impulse control disorder.

### Director's Review

The purpose of this review is to determine whether the Petitioner required residential mental health treatment between February 27, 2015 and March 2, 2015, the period for which coverage was denied. BCBSM/Magellan ruled that residential treatment was not medically necessary.

To resolve the question of whether the residential level of care was medically necessary after February 26, 2015, the case was assigned 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 reviewer is a physician in active practice for more than 20 years who is board certified in psychiatry and is familiar with the medical management of patients with the member's condition. The IRO report included the following analysis and recommendation:

[T]his case involves a ■ year-old female who has a history of generalized anxiety disorder, major depressive disorder, panic disorder, attention deficit hyperactivity disorder and alcohol abuse according to her treating psychiatrist. The member was admitted to a residential facility on 2/18/15 for treatment of post traumatic stress disorder, anxiety, depression, anorexia, bulimia and alcohol abuse. At issue in this appeal is whether it was medically necessary for the member to have been treated at a residential level of care starting 2/27/15.

The member was placed on antidepressant medications and mood stabilizers, but then was found to have a Bipolar Mixed Disorder concurrent with an Impulse Control Disorder according to her physician. This member had been binge drinking for 1 to 2 days at a time with bingeing and restricting and has had excessive worry, panic and sadness with insomnia and anhedonia...[I]n the records from this admission, it was noted that this member was doing fairly well with no history of withdrawal, seizures or delirium tremens, but was having anxiety and some depression...[I]t was noted the member did not require detoxification and that she was future goal oriented with no suicidal ideation or homicidal ideation present.

[B]ased on review the records provided, the member was noted to be appropriate in her appearance with spontaneous speech, anxious mood and appropriate affect...[T]he member was not showing symptoms of withdrawal...[T]he member did not show any severity of symptoms which would require 24-hour seven days per week care...[T]here were no physical signs and symptoms of acute withdrawal and or risks or of signs and symptoms of acute withdrawal...[T]he member was not showing the behavioral symptoms which resulted in her admission...[B]ased upon review of the records provided, it does not appear that this member required treatment at a residential level of care during the period at issue in this appeal and could have been treated in a less restrictive setting.

Pursuant to the information set forth above and available documentation...it was not medically necessary for the member to have been treated at a residential level of care starting 2/27/15.

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. Furthermore, it is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15).

The Director can discern no reason why the IRO's recommendation should be rejected. The Director finds that the residential mental health treatment Petitioner received between February 27 and March 2, 2015, was not medically necessary.

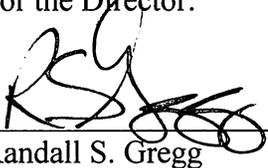
**V. ORDER**

The Director upholds BCBSM's July 22, 2015, final adverse determination.

This is a final decision of an administrative agency. Any person aggrieved by this order may seek judicial review no later than sixty days from the date of this order in the circuit court for the county where the covered person resides or 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