

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. 152005-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 3rd day of March 2016
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On February 2, 2016, ██████████ on behalf of her ██████████ ██████████ (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, MCL 550.1901 *et seq.* On February 5, 2016, the Director accepted the request.

The Petitioner receives health care benefits through an individual dental plan that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Blue Dental Individual Market Benefits Certificate*. The Director notified BCBSM of the external review request and asked for the information used to make its final adverse determination. BCBSM furnished the information on February 16, 2016.

The case involves medical issues so it was assigned to an independent review organization which submitted its analysis and recommendation on February 24, 2016.

II. FACTUAL BACKGROUND

The Petitioner, who is eleven years old had a tooth extracted on October 21, 2015 under general anesthesia. BCBSM denied coverage for the general anesthesia. The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of that process BCBSM issued a final adverse determination dated December 18, 2015, affirming its denial. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Was it medically necessary that the Petitioner's October 21, 2015 dental surgery be performed under general anesthesia?

IV. ANALYSIS

Petitioner's Argument

In a letter of appeal to BCBSM dated May 14, 2015, Petitioner's dentist wrote:

[Petitioner] is an [REDACTED]-year-old female who was originally referred to our oral surgery office on March 27, 2015. This primarily concerned the non-eruption of tooth #13. Clinical and radiographic examination revealed that tooth #13 was completely blocked-out of her dental arch. Because of the malposed nature of this tooth, the orthodontist felt that the tooth was non-salvageable and referred the patient to our office for extraction. Again, the malposed position of this tooth presented a very complicated extraction. Additionally, [Petitioner] was extremely nervous and a general anesthetic was thought necessary.

[Petitioner] returned on April 6, 2015, and we were able to remove tooth #13 after multiple approaches. The surgery was successful and we have no plans for future surgery in this case.

Due to the malposed nature of tooth #13 and the multiple approaches that were necessary, general anesthesia was warranted in her case.

BCBSM's Argument

In its final adverse determination, BCBSM wrote:

Your request for reconsideration of the previous benefits provided for this service has been denied. General Anesthesia is a reviewable procedure and payment is determined based on dental necessity. Dental necessity is determined by dentists acting for BCBSM, based on criteria and guidelines developed by dentists for BCBSM who are acting for their respective peer provider type of specialty. Unfortunately, the information provided does not meet the benefit guidelines. This decision was based on a review of the documentation provided.

Director's Review

The *Blue Dental Individual Market Benefits Certificate*, on page 15, provides that general anesthesia is a covered benefit when it is determined to be medically necessary. BCBSM denied coverage of the Petitioner's anesthesia saying the Petitioner did not meet its criteria for use of a general anesthetic, found in its "Guide for Dental Care Providers" which states:

Criteria:

- Two or more impacted teeth are removed on the same date
- Four third molars are extracted on the same date
- Total of six or more teeth in various quadrants are extracted on the same date

- Patient is allergic to local anesthesia
- There is significant cellulitis or swelling and associated trismus that does not allow the use of local anesthesia at site of injection
- Patient is younger than age 7
- Treatment is for bilateral alveolectomy, bilateral alveoloplasty, bilateral surgical exposures or bilateral tori
- Patient is medically impaired or compromised

Limitations: This procedure is not payable unless one of the criteria is met.

The question of whether the Petitioner's anesthesia was medically (dentally) necessary 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 reviewer is a physician in active practice who is certified by the American Board of Oral and Maxillofacial Surgery and is published in peer reviewed literature. The IRO report included the following analysis and recommendation:

The standard of care is that general anesthesia for dental work is routinely performed for anxious patients unable to have procedures under local anesthesia. According to the American Dental Association (ADA), the decision to use general anesthesia for a particular dental procedure should only be determined by considering the needs of the patient, the requirements of the operating dentist, the effect on the quality of the dental treatment and the availability of appropriately trained anesthesia providers. According to the American Association of Oral and Maxillofacial Surgeons (AAOMS), general anesthesia is indicated for:

- Patients who cannot cooperate due to a lack of psychological or emotional maturity and/or mental, physical or medical disability;
- Patients for whom local anesthesia is ineffective because of acute infection, anatomic variations, or allergy;
- The extremely uncooperative, fearful, anxious, or uncommunicative child or adolescent;
- Patients requiring significant surgical procedures;
- Patients for whom the use of general anesthesia may protect the developing psyche and/or reduce medical risk;
- Patients requiring immediate, comprehensive oral/dental care

Because of significant surgical procedure and the enrollee's anxiety, general anesthesia was indicated and the intravenous (IV) anesthesia allowed the procedure to be performed without the enrollee being aware of the surgical trauma. Therefore, the deep sedation/general anesthesia was medically necessary for this enrollee.

Recommendation:

It is the recommendation of this reviewer that the denial issued by Blue Cross Blue Shield of Michigan for deep sedation/general anesthesia for the extraction of tooth #13 be overturned.

References:

1. Guidelines for the Use of Sedation and General Anesthesia by Dentists. As adopted by the October 2012 ADA House of Delegates. American Dental Association.

2. Parameters of Care: Clinical Practice Guidelines for Oral and Maxillofacial Surgery. Version 5. American Association of Oral and Maxillofacial Surgeons (AAOMS ParCare 2012)

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 deep sedation/general anesthesia administered to the Petitioner on October 21, 2015 was medically necessary and is therefore a covered benefit under the terms of the certificate.

V. ORDER

The Director reverses BCBSM's final adverse determination of December 18, 2015.

BCBSM shall immediately provide coverage for the Petitioner's October 21, 2015, deep sedation/general anesthesia and shall within seven days of providing coverage, furnish the Director with proof it implemented 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:



Randall S. Gregg
Special Deputy Director