

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████,

Petitioner,

v

Blue Cross Blue Shield of Michigan,
Respondent.

File No. 152914-002

(Corrected clerical error)

Issued and entered
this 30th day of June 2016
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner), a minor,¹ was transported by air ambulance. His health insurance carrier, Blue Cross Blue Shield of Michigan (BCBSM), paid only a portion of the charge for the transport.

On March 28, 2016, ██████████, the Petitioner's mother, 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.* The Director accepted the request on April 4, 2016.

The Petitioner is enrolled for health care benefits through the MICHild Program, a group plan for children under the age of 19 offered through the Michigan Department of Health and Human Services. The plan 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 responded on April 12, 2016.

¹ Born ██████████ 1999.

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 *MIChild Program Benefits Certificate*² (the certificate).

On October 11, 2015, after suffering burns to the face and neck area, the Petitioner was transported from Sandusky, Michigan, to Hurley Hospital in Flint, Michigan, by rotary wing air ambulance. The ambulance service, Rocky Mountain Holdings, LLC (Rocky Mountain), does not participate with BCBSM. The charge for the transport was \$44,558.00. BCBSM approved and paid \$7,951.32 for the service, leaving the Petitioner responsible for the balance.

The Petitioner appealed the amount paid by BCBSM through its internal grievance process. At the conclusion of that process, BCBSM issued a final adverse determination dated February 12, 2016, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Is BCBSM required to pay any additional amount for the Petitioner's air ambulance transport?

IV. ANALYSIS

Petitioner's Argument

In letter dated March 20, 2016, filed with the external review request, the Petitioner's mother wrote:

[M]y son ... was burning trash when a spray paint can exploded and caused burns to his face and arms. He was taken to the nearest hospital in Sandusky where the ER physician ... made the decision that he needed to be transferred to the nearest burn trauma unit as quickly as possible. He was then transferred by air ambulance to Hurley Medical Center in Flint, MI. [He] was covered by MI Child-BCBS insurance that provides 100% coverage for this service in an emergency situation. The total billed

2 BCBSM form no. 2312, approved 09/12.

amount for this service through Rocky Mountain Holdings LLC was \$44,558.11. BCBS paid an approved amount of \$7951.32 leaving a balance of \$36,606.79. I am seeking resolution of this the balance amount. This remaining balance presents an extreme difference between the billed amount and the approved payment amount leaving an unreasonable balance left to the patient who was covered with a 100% coverage benefit and a state provided insurance meant for a recipient of limited financial means. This service was provided under the following required conditions:

1. The service was deemed medically necessary by the attending ER physician.
2. The patient's condition required this type of emergent air ambulance transport.
3. The patient was taken to the nearest facility able to handle his condition.
4. The provider was a licensed air ambulance service and not a commercial air carrier.

BCBSM's Argument

In the February 12, 2016, final adverse determination, BCBSM's representative told the Petitioner's mother:

After review, I have confirmed that the claim for air ambulance service has been processed correctly and that the \$7,951.32 payment that BCBSM has already issued to the provider represents the maximum benefit available under [the Petitioner's] contract. Payment of covered services is based on the approved amount. The maximum payment was issued and no additional payment can be made.

On the date of service, [your son] was covered under the *MiChild Program Benefits Certificate* ... His PPO plan utilized the Preferred Provider Organization network, which is designed to limit out-of-pocket costs and provide the highest possible level of benefit compensation when you use physicians, hospitals and other health care specialists that are part of the network.

As indicated on page 5.5 of the *Certificate*, under **Section 5: Coverage for Other Health Care Services**, [your son] has coverage for air ambulance services.

Page 5.6 of the *Certificate* further explains that we pay the approved amount for ambulance service. The approved amount is defined on page

7.2 under **Section 7: Definitions** as "the lower of the billed charge or our maximum payment level for the covered service."

* * *

On December 3, 2015, we issued payment in the amount of \$7,951.32 which reflects our approved amount for this service. In this instance, the maximum payment was issued, and additional payment cannot be made.

I understand your concern regarding the balance, and I acknowledge that you did not have the opportunity to choose your son's provider on this occasion. However, BCBSM must administer benefits in accordance with the terms of your son's health care plan, and the maximum payment has been issued.

Director's Review

Air ambulance transport is a benefit under the certificate and there is no dispute that the Petitioner met the criteria for the service. The only dispute is over the amount BCBSM paid for the service.

The certificate (p. 5.5) says that BCBSM pays its "approved amount" for ambulance services, including air ambulance transport. "Approved amount" is defined in the certificate (p. 7.2) as

[t]he lower of the billed charge or our maximum payment level for the covered service. Copayments, which may be required of you, are subtracted from the approved amount before we make our payment ...

In this case, BCBSM's maximum payment level for the air ambulance service was \$7,951.32. Because that amount is lower than the billed charge from Rocky Mountain, it became BCBSM's approved amount.

Rocky Mountain is not a participating provider, i.e., it has "not signed a participation agreement with BCBSM to accept the approved amount as payment in full" (certificate, p. 7.19). Consequently, Rocky Mountain may bill the Petitioner for the difference between BCBSM's approved amount and its charge. The certificate (p. 4.32) says:

If the nonpanel provider is **nonparticipating**, you will need to pay most of the charges yourself. Your bill could be substantial ...

NOTE: Because nonparticipating providers often charge more than our maximum payment level, our payment to you may be less than the amount charged by the provider.

There is nothing in the certificate or in state law that requires BCBSM to pay more than its approved amount, even when the service is provided on an emergency basis, or there was no participating provider available, or the patient had no choice in which provider was used.

In this case, BCBSM paid its approved amount for the Petitioner's for the Petitioner's October 11, 2015, air ambulance services and is not required to pay any additional amount. Accordingly, the Director finds that the amount BCBSM paid was consistent with the terms and conditions of the certificate.

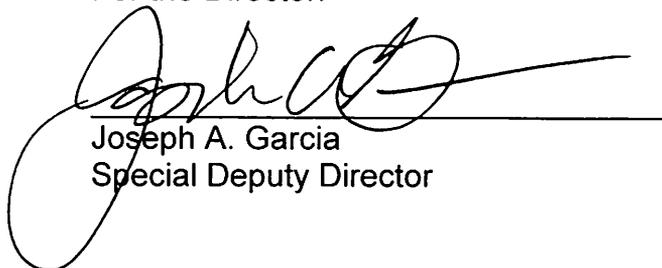
V. ORDER

The Director upholds BCBSM's final adverse determination of February 12, 2016.

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:



Joseph A. Garcia
Special Deputy Director