

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. 154221-001

Blue Cross Blue Shield of Michigan,

Respondent.

Issued and entered
this 12th day of July 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) wants her health insurer, Blue Cross Blue Shield of Michigan (BCBSM), to waive the \$150.00 copayment for emergency room treatment she received. BCBSM declined to do so.

On June 20, 2016, 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.* The Director accepted the request on June 27, 2016.

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 responded on June 28, 2016.

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 described in BCBSM's *Simply Blue Group Benefits Certificate LG* (the certificate).

On February 9 and 10, 2016, the Petitioner was treated in the emergency room and then placed under observation at a hospital in Arizona. BCBSM's approved amount for the care was \$7,077.19 and, after applying a \$150.00 emergency room copayment, it paid the provider \$6,927.19 for these services.

The Petitioner appealed BCBSM's application of the \$150.00 emergency room copayment, saying it should be waived because she was admitted as an inpatient. At the conclusion of BCBSM's internal grievance process, it issued a final adverse determination dated June 6, 2016, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did BCBSM correctly apply a \$150.00 emergency room copayment to the Petitioner's emergency room services?

IV. ANALYSIS

BCBSM's Position

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

... After review, I confirmed that the payment determination is correct. You remain responsible for the emergency room visit copayment of \$150.00.

You are covered under the *Simply Blue Group Benefits Certificate LG*. Page 13 of the Certificate states that you must pay a \$150 in-network provider copayment for each visit for facility services in a hospital emergency room. The copayment is waived if the patient is admitted.

I understand your concerns over the copayment. However, our records reflect that your provider reported your hospital stay as an outpatient visit.

BCBSM is required to process claims according to the information submitted by your health care provider and we must administer benefits in accordance with the contractual provisions of your coverage. As a result, the visit is subject to the \$150.00 emergency room copayment.

Petitioner's Position

On the external review request the Petitioner wrote:

Waive ER visit copayment. Admitted to hospital. All documentation states hospital admission. Should not have to pay the \$150 ...

Director's Review

In "Section 2: What You Must Pay" (p. 13), the certificate says:

In-Network Provider Copayment

You must pay following amounts for covered services by in-network providers:

- \$150 per visit for facility services in a hospital emergency room (waived if the patient is admitted).

The Petitioner was treated in the emergency room on February 9, 2016, and subsequently received additional care that the Petitioner believes was rendered while she was admitted as an inpatient. BCBSM, however, characterizes the care she received after the emergency room as "observation care."

Unfortunately, the certificate, under the benefit for "Hospital Services" (p. 50), does not specifically mention observation care. Observation care is a hospital outpatient service, generally of short duration, conducted to monitor and evaluate a patient to determine if follow-up care (including an inpatient stay) is needed. Patients under observation may perceive that they have been admitted to the hospital because they may be among actual inpatients.

The claim from the hospital was submitted for observation care. There are no room and board charges on the claim to document an inpatient admission. Further, BCBSM contacted the hospital in Arizona on June 28, 2016, and confirmed that the Petitioner was not admitted as an inpatient to the hospital. Because the Petitioner was not admitted as an inpatient, the \$150.00 emergency room copayment was correctly applied.

The Director finds that BCBSM's decision to apply the emergency room copayment was in accord with the terms and conditions of the certificate.

V. ORDER

The Director upholds BCBSM's final adverse determination of June 6, 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:

A handwritten signature in black ink, appearing to read 'RS Gregg', written over a horizontal line.

Randall S. Gregg
Special Deputy Director