

**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. 154534-001**

**Blue Cross Blue Shield of Michigan,  
Respondent.**

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**Issued and entered  
this 5<sup>th</sup> day of August 2016  
by Randall S. Gregg  
Special Deputy Director  
ORDER**

**I. PROCEDURAL BACKGROUND**

██████████ (Petitioner) was transported by air ambulance and was dissatisfied by the way his health insurer, respondent Blue Cross Blue Shield of Michigan (BCBSM), processed the claim for that service.

On July 12, 2016, Ruth Gerlofs, the Petitioner's authorized representative, 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 July 19, 2016.

The Petitioner receives health care benefits through an individual 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 July 22, 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 defined in BCBSM's *Blue Cross Premier Bronze Benefits Certificate* (the certificate).

On May 8, 2015, the Petitioner was transported by air ambulance from Escanaba, Michigan, to a hospital in Milwaukee, Wisconsin. The ambulance provider, Valley Med Flight, does not participate with BCBSM. The charge for the transport was \$46,289.00; BCBSM approved and paid \$12,335.09. This left the Petitioner responsible for the balance of \$33,953.91.

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 affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

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

### IV. ANALYSIS

#### Petitioner's Position

In a July 8, 2016 letter that was filed with the external review request, the Petitioner's authorized representative wrote:

[The Petitioner] required specialty services, as a result he was transported to the closest facility, Froedert Memorial Lutheran Hospital, that could render care. According to Section 2719A of the Affordable Care Act the services provided are considered "pre-emergent" services; therefore, your member should not be penalized for receiving the necessary medical services needed to appropriately and safely treat them for the best clinical outcome. As a non-contracted provider we are under no obligation to accept a reduced payment and will not honor any discounted allowable, leaving your member responsible for any unpaid balance. We request that you reprocess this claim for an additional payment of \$33,953.91. . . .

#### BCBSM's Position

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

. . . After review, I confirmed the maximum payment available payment of \$12,335.09 was issued to [the Petitioner] on December 14, 2015. Additional payment cannot be approved.

\* \* \*

. . . According to section titled "What BCBSM Pays For" on Page 19 of the *Certificate*, we pay our approved amount for the services you receive that are covered in this certificate. . . .

Our reimbursement of \$12,335.09 for the May 8, 2015 air ambulance services is the full approved amount for procedure codes A0435 (fixed wing air mileage, per statute mile) and A0430 (ambulance service, conventional airplane service, transport, one way).

The services in question were reported by Valley Med Flight, Inc. This provider does not participate with Blue Cross Blue Shield (BCBS). Page 170 of the *Certificate* explains, nonparticipating providers are physicians and other health care professionals, or hospitals and other facilities or programs that have not signed a participation agreement with BCBSM to accept the approved amount as payment in full.

Payment remains denied for procedure code A0398 (ALS routine disposable supplies) because that procedure is considered inclusive to the other services reported for the May 8, 2015 service date and separate reimbursement is not warranted.

While I empathize with [the Petitioner's] situation, we must administer benefits in accordance to the terms of his coverage. Payment for the air ambulance services he received was approved because the services were part of emergency care. As a result, the claim processed in our in-network benefit level and we issued our maximum reimbursement of \$12,335.09 to [the Petitioner]. Additional payment cannot be approved.

### Director's Review

Air ambulance transport is a covered benefit under the Petitioner's health plan. According to the certificate (p. 19), BCBSM pays its "approved amount" for covered services. "Approved amount" is defined in the certificate (p. 152) as

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

BCBSM's maximum payment level for the Petitioner's ambulance transport was \$12,335.09. Because that amount is lower than the provider's billed charge of \$46,289.00, it became BCBSM's approved amount for the service.

BCBSM pays its approved amount to both participating and nonparticipating providers. There is nothing in the certificate 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.<sup>1</sup> BCBSM paid the full approved amount to the Petitioner and is therefore not required to pay any additional amount for the ambulance service.

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<sup>1</sup> Section 2719A of the Patient Protection and Affordable Care Act, cited by the Petitioner, and does not require BCBSM to pay more than its approved amount to a nonparticipating provider for emergency services.

The Director finds that the amount BCBSM paid for the Petitioner's May 8, 2015 ambulance services was consistent with the terms and conditions of the certificate.

**V. ORDER**

The Director upholds BCBSM's final adverse determination. BCBSM is not required to pay an additional amount for this care.

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', is written over a horizontal line.

Randall S. Gregg  
Special Deputy Director