

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. 154537-001

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 11th day of August 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 12, 2016 ██████████ (Petitioner) filed a request with the Department of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On July 19, 2016, after a preliminary review of the information submitted, the Director accepted the request.

The Petitioner receives health care benefits through a group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Director notified BCBSM of the external review request and asked for the information used to make its adverse determination. BCBSM submitted its response on July 27, 2016.

The medical issues in this case were evaluated by an independent review organization which provided its analysis and recommendation to the Director on August 2, 2016.

II. FACTUAL BACKGROUND

The Petitioner is 64 years old and has hypertension, gastroesophageal reflux disease (GERD)/gastritis, diverticulosis, elevated body mass index, and prostate cancer. On December 31, 2013, the Petitioner had the PathFinder TG molecular test to evaluate a pancreatic cyst. The test cost \$4,000.00.

BCBSM denied coverage for the test, ruling that it was experimental/investigational. The Petitioner appealed the denial through BCBSM's internal grievance process. BCBSM

issued a final adverse determination on June 29, 2016 affirming its denial. The Petitioner now seeks the Director's review of that determination.

III. ISSUE

Is the PathFinder TG molecular test experimental or investigational for treatment of the Petitioner's condition?

IV. ANALYSIS

BCBSM's Argument

In its June 29, 2016 final adverse determination, BCBSM wrote:

An associate medical director, board-certified M.D. in Internal Medicine reviewed your claim, your appeal, and your health care plan benefits for BCBSM. The physician determined:

We have reviewed your appeal for the denial of coverage for Pathfinder TG molecular testing that was ordered because you were diagnosed with a pancreatic cyst. Per the Blue Cross Blue Shield of Michigan medical policy titled "Genetic Testing-Molecular Anatomic Pathology (Pathfinder TG)," molecular testing using the Pathfinder system is experimental/investigational. The impact of this technology on health outcomes compared with existing alternatives (i.e., incremental value) is not known. Therefore, we are unable to approve this test.

Petitioner's Argument

In a July 7, 2016 letter submitted with the request for an external review, the Petitioner wrote:

As stated before, both of my deductibles were met for 2013 and I was still covered under the policy. From what I understand also the treatment codes and diagnostic codes were changed in the middle of the billing.

I have sent all the paperwork that I have to BCBS and I feel that the two PMN cysts that were identified should be covered by BCBS.

Director's Review

The Petitioner's health benefit plan excludes coverage for experimental and investigational medical services. To evaluate the question of whether the PathFinder TG test was investigational/experimental, the Director presented the issue 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 Internal Medicine with a subspecialty in gastroenterology. The reviewer is published in peer reviewed medical literature.

The reviewer's report summarized a number of medical studies related to pancreatic cysts. The reviewer then concluded that "the PathFinder TG molecular testing performed on December 31, 2013 was experimental/investigational in the treatment of the enrollee's condition." The reviewer recommended that BCBSM's coverage denial be upheld.

While the Director is not required in all instances to accept the IRO's recommendation, the recommendation is afforded deference by the Director. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). 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. The Director can discern no reason why the IRO's recommendation should be rejected in the present case. The Director finds that the PathFinder TG molecular test was experimental/investigational as part of the Petitioner's medical care and, for that reason, is not a covered benefit.

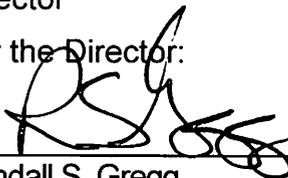
V. ORDER

BCBSM's final adverse determination is upheld.

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 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