

**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. 154884-001-SF

County of Iosco, Plan Sponsor  
and  
Blue Cross Blue Shield of Michigan, Plan Administrator  
Respondents

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Issued and entered  
this 24<sup>th</sup> day of August 2016  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On August 2, 2016, ██████████, representing her son ██████████ (Petitioner), filed a request for external review with the Department of Insurance and Financial Services. The request for review concerns coverage for air ambulance services the Petitioner received in December 2015. The claim decision in dispute was issued by Blue Cross Blue Shield of Michigan (BCBSM), the administrator of the Petitioner's health benefit plan which is sponsored by Iosco County.

The request for external review was filed under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.* Act 495 requires the Director to provide external reviews to a person covered by a self-funded health plan that is established or maintained by a state or local unit of government. The Director's review is performed "as though that person were a covered person under the Patient's Right to Independent Review Act", MCL 550.1952. The Petitioner's health benefit plan is such a governmental self-funded plan. The plan's benefits are described in BCBSM's *Simply Blue Group Benefits Certificate ASC*.

On August 9, 2016, after a preliminary review of the information submitted, the Director accepted the request for review. The Director notified BCBSM of the appeal and asked it to provide the information used to make its final adverse determination. BCBSM submitted its response on August 11, 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

On December 4, 2015, while hunting, the Petitioner suffered an accidental gunshot wound to his left leg and was transported by air ambulance from Tawas, Michigan to a hospital in Saginaw, a distance of 66 miles. The ambulance provider, Med Trans Corporation, (Med Trans) does not participate with BCBSM. The charge for the transportation was \$34,968.56. The charge included the helicopter charge of \$33,825.52 and \$1,143.04 for other medical services and supplies provided during the flight.

BCBSM approved \$6,319.99 for the aircraft charge and denied coverage for the in-flight services and supplies. BCBSM applied a coinsurance charge of \$77.44 and paid \$6,242.55. Because the flight was part of an ongoing medical emergency, BCBSM's approved amount was the same amount BCBSM would pay to an in-network provider for the same services. The Petitioner is now being billed by Med Trans for that portion of its charges not covered by BCBSM.

The Petitioner appealed the amount paid by BCBSM through its internal grievance process. On May 20, 2016, at the conclusion of that process, BCBSM issued a final adverse determination affirming its decision. The Petitioner now seeks the Director's review of that final adverse determination.

## III. ISSUE

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

## IV. ANALYSIS

### BCBSM's Position

In its final adverse determination, BCBSM stated that the maximum payment available is \$6,319.99:

A total of \$77.44 was appropriately applied towards your coinsurance requirement and a payment in the amount of \$6,242.55 was issued ... on December 14, 2015. Additional payment cannot be approved.

\* \* \*

Our reimbursement of \$6,242.55 together with the coinsurance requirement of \$77.44 represents the full approved amount of \$6,319.99

for procedure codes A0436 (rotary wing air mileage, per statute mile), A0431 (ambulance service, air (helicopter) service, transport, one way), and A0422 (ambulance (ALS/BLS) oxygen/oxygen supplies life sustaining situation) [Petitioner] received on December 4, 2015.

The services in question were reported by Med Trans Corporation. This provider does not participate with [BCBSM]. Page 150 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 treatment, prophylactic, or diagnostic injection; intravenous push, single or initial substance/drug (procedure code 96374). Specifically, according to the *Benefit Package Report*, an online tool used by BCBSM to hold group specific benefit information, procedure code 96374 is not payable for the reported provider type. As a result, payment is not available.

Also, payment remains denied for ALS routine disposable supplies (procedure code A0398). This procedure is not a benefit of the health care plan and is considered inclusive to the other services reported for the December 4, 2015 air ambulance services [Petitioner] received and separate reimbursement is not available.

...The air ambulance services [Petitioner] received were approved and paid at our in-network benefit level because the services were part of emergency care. As a result, we approved payment at our maximum benefit of \$6,319.99. Additional payment cannot be approved.

### Petitioner's Position

In the external review request, the Petitioner's mother wrote:

The hospital did not give any other choice but Med Trans. I was not informed this transportation was an "out of network" for [BCBSM]. I am asking for [BCBSM] to pay this claim as if it was an "in network" claim. Also to review all documents I have already provided regarding doctor and hospital choice of transportation.

### Director's Review

The *Simply Blue* certificate (page 19) covers medically necessary air ambulance transportation. There is no dispute that the Petitioner's transportation was medically necessary. The only dispute is over the amount paid by BCBSM for the service.

The *Simply Blue* certificate (page 27) states that BCBSM pays its "approved amount" for covered services including air ambulance transportation. "Approved amount" is defined 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.

In this case, BCBSM's maximum payment was \$6,319.99. (The Department of Insurance and Financial Services does not regulate the payments an insurer establishes as its approved amount.) After applying a coinsurance charge of \$77.44, BCBSM paid \$6,242.55.

Med Trans is not a participating provider which means it has not signed a participation agreement with BCBSM to accept the approved amount as payment in full. As a nonparticipating provider, Med Trans may bill an insured person for the difference between BCBSM's approved amount and its charge. The *Simply Blue* certificate (page 13) includes this provision:

Nonparticipating providers have not signed an agreement and can bill you for any differences between their charges and our approved amount.

In this case, BCBSM paid its full approved amount for the Petitioner's air ambulance services and is not required to pay any additional amount. BCBSM's payment for the Petitioner's December 4, 2015, air ambulance transport services was consistent with the terms and conditions of the *Simply Blue* certificate.

#### V. ORDER

The Director upholds BCBSM's final adverse determination.

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:



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Randall S. Gregg  
Special Deputy Director