

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. 146713-001

Blue Care Network of Michigan

Respondent

---

Issued and entered  
this 1<sup>st</sup> day of April 2015  
by Joseph A. Garcia  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On March 9, 2015, ██████████ authorized representative of ██████████ (Petitioner), filed a request with the Director of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits under a plan from Blue Care Network of Michigan (BCN), a health maintenance organization. The Director immediately notified BCN of the external review request and asked for the information it used to make its final adverse determination. BCN responded on March 12, 2015. On March 16, 2015, after a preliminary review of the material submitted, the Director accepted the request.

The issue in this external review can be decided based on an analysis of the contract that defines the Petitioner's health care benefits. The Director reviews contractual issues under MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

**II. FACTUAL BACKGROUND**

The benefits are defined in BCN's *Certificate of Coverage BCN Classic for Large Groups* dated 1-1-2014 (the certificate).

The Petitioner has a history of eating disorders and was diagnosed with anorexia nervosa, Restricting Type. She also has co-occurring diagnoses of major depressive disorder and symptoms of attention deficit/hyperactivity disorder (ADHD).

From April 15 until May 4, 2014, the Petitioner received inpatient treatment for her eating disorder at the Eating Recovery Center (ERC), a non-participating provider in ██████████. BCN covered the inpatient treatment.

On May 4, 2014, the ERC determined that the Petitioner was ready to transition to residential treatment, a lower level of care. She received residential treatment at the ERC from May 4, 2014 through June 8, 2014. BCN denied coverage for this treatment on the basis that it was not a covered benefit. On June 9, 2014, the Petitioner transitioned to the ERC's partial hospital programming (PHP). She received PHP from June 9 through July 1, 2014. BCN denied coverage for the PHP on the basis that there was no prior authorization.

When the Petitioner's family sought reimbursement for the residential treatment and PHP, BCN denied it. The ERC, acting for the Petitioner, appealed the denial through BCN's internal grievance process. At the conclusion of that process BCN maintained its denial and issued two final adverse determinations, both dated January 8, 2015: one for the residential treatment from May 4 through June 8, 2014, and the other for the PHP treatment from June 9 through July 1, 2014.

The Petitioner now seeks a review of both adverse determinations from the Director.

### III. ISSUE

Did BCN properly deny coverage for the Petitioner's residential and PHP treatment?

### IV. ANALYSIS

#### Petitioner's Argument

The Petitioner's authorized representative submitted a letter dated March 6, 2015, which said in part:

All of [the Petitioner's] eating disorder treatment providers, including her Michigan outpatient team and her team at ERC opined that [Petitioner] required inpatient, residential and partial hospitalization programming to adequately address her treatment needs from April 15 to July 2, 2014. It should be noted that [the Petitioner's] physician at ERC is world renowned for his work in the treatment of eating disorders and provided a detailed analysis of [Petitioner's] treatment needs as well as meeting necessary admission criteria.

\* \* \*

[A]s a basis for denying [the Petitioner's] request for Partial Hospitalization Programming, BCN has baldly claimed that benefits were not available because [the Petitioner] failed to seek authorization of that level of care. As . . . further dis-

cussed in . . . affidavits, every effort was made to obtain prior authorization for both residential and partial hospitalization programming. Any claim by BCN that prior authorization was not sought and therefore, benefits are not afforded [the Petitioner] is without merit or factual support and should be reversed.

Both [the Petitioner] and ERC fully understood the requirement for prior authorization and made several attempts to comply. Despite their efforts, BCN wholly frustrated the claims process by flatly claiming [the Petitioner] lacked mental health benefits for out-of-network providers and therefore no prior authorization was needed. BCN's representations were contrary to law, the previous discussion . . . with a BCN representative (who detailed the process of authorization for authorization for out-of-network providers) and contrary to the prior authorization process, which occurred during [Petitioner's] admission to TEP [*The Emily Program*]. It is unclear why BCN suddenly took the position, after authorizing residential eating disorder care at an out-of-network provider in 2012 and 2013 that [the Petitioner] did not have the same mental health benefit. Despite requests for information related to these prior decisions, BCN has refused to provide [the Petitioner] any information clarifying their prior decision-making. At best BCN's decisions have been haphazard. However, in spite of BCN's misinformed representations, prior authorization was sought and any grounds for denial on this basis is in error and should be reversed.

Undeniably, medical necessity for [the Petitioner's] residential and partial hospitalization programming at ERC is extensively documented in her medical records. More importantly, all of her treatment providers have opined that it was medically necessary for [her] to engage in these levels of care following her inpatient admission in order to avoid a relapse and sustain her treatment success.

Furthermore, [the Petitioner's] medical plan affords her both inpatient and partial hospitalization programming mental health benefits for her treatment at ERC. BCN has repeatedly interpreted [her] medical plan to cover her residential eating disorder treatment. Additionally, any claims that [she] failed to seek prior authorization or that her treatment needs could be met at an in-network provider are wholly lacking in factual support. For the above-reasons, BCN's denials for coverage of [Petitioner's] medically necessary eating disorder treatment must be reversed. . . .

### Respondent's Argument

In its final adverse determination regarding residential treatment, BCN wrote:

The [grievance] Panel has maintained the denial because residential services were not a covered benefit at the time of service. Blue Care Network authorized the initial inpatient mental health stay because the member met criteria for coverage. The facility, Eating Recovery Center, confirmed that they told the

[Petitioner] she no longer met criteria for Inpatient level of care and would be discharged. The parents decided to private pay for residential care.

For future reference please be aware that all behavioral health services must be pre-authorized and provided by in network providers.

In its final adverse determination regarding partial hospital programming (PHP), BCN wrote:

The Panel has maintained the denial because prior authorization was neither approved nor requested and partial hospitalization programs were available within the network of contracted providers.

#### Director's Review

BCN denied coverage for the residential services from May 4 through June 8, 2014, because the residential treatment was not a covered benefit during the dates of service in dispute. BCN's decision was based on this provision in the certificate (p. 38):

##### ***8.14 Mental Health Care***

This plan covers evaluation, consultation and treatment necessary to determine a diagnosis and treatment plan for mental health conditions. Non-Emergency Mental Health services must be Preauthorized as Medically Necessary by BCN. (Mental Health Emergency Services are covered pursuant to Emergency and Urgent Care section.)

\* \* \*

- Coverage is limited to Acute Illnesses or Acute episodes of Chronic illness or to those Outpatient services that are Medically Necessary in order to prevent an Acute episode of a Chronic Illness. [Underlining added]
- Medical services required during a period of mental health admission must be Preauthorized by your Primary Care Physician and BCN.

BCN does not dispute that residential treatment was medically necessary for the Petitioner. However, only acute care was a benefit under the certificate at the time Petitioner received the care.

BCN also denied coverage for the PHP services the Petitioner received from June 9 through July 1, 2014, saying no prior authorization was issued.<sup>1</sup> The certificate has this provision (p. 57) regarding out-of-network services:

##### ***9.1 Unauthorized and Out of Network Services***

---

<sup>1</sup> BCN also says that the Petitioner could have received PHP services from a network provider in Michigan.

Except for Emergency care as specified in Section 8 health, medical and hospital services listed in this Certificate are covered only when:

- Provided by a Participating Provider; and
- Preauthorized by BCN for select services.

There is nothing in the record to show that BCN preauthorized the PHP program from the ERC, an out-of-network provider, as required by section 9.1 of the certificate. The Petitioner's authorized representative acknowledged in her March 6, 2015, letter that an attempt was made to get preauthorization but none was given:

[The Petitioner] remained in residential treatment from May 5, 2014 to June 8, 2014, when she was successfully discharged and transitioned to partial hospitalization programming at ERC. Again, ERC UR staff contacted BCN to obtain preauthorization for [the Petitioner's] step-down in treatment. [The Petitioner's] BCN care manager . . . told ERC that authorization was not necessary because [her] health policy did not afford her mental health benefits for an out-of-network provider. . . . Relying on BCN's representations, ERC did not pursue the authorization process any further.

The Director finds that BCN's denial of coverage for Petitioner's residential treatment and PHP services was consistent with the terms and conditions of the certificate of coverage.

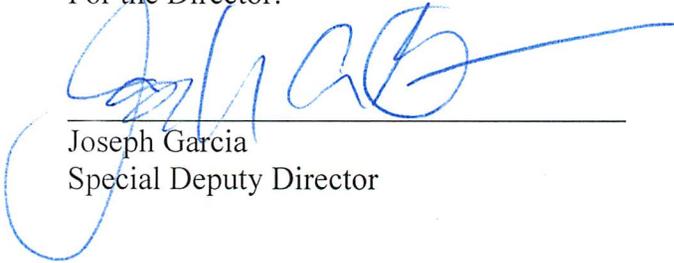
#### V. ORDER

The Director upholds BCN's January 8, 2015, final adverse determinations.

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.

Annette E. Flood  
Director

For the Director:



---

Joseph Garcia  
Special Deputy Director