

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. 149925-001

Blue Care Network of Michigan,

Respondent.

Issued and entered
this 23rd day of October 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for chiropractic treatment by her health plan, Blue Care Network of Michigan (BCN). On September 18, 2015, she filed a request with the Director of Insurance and Financial Services for an external review of that denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Director accepted the request on September 29, 2015, after a preliminary review of the material submitted.

The Petitioner was enrolled for individual health care coverage with BCN, a health maintenance organization. The Director notified BCN of the external review request on September 22, 2015, and asked for the information it used to make its final adverse determination. BCN provided its response on September 30, 2015.

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 Petitioner's health care benefits are defined in BCN's *Certificate of Coverage for Individuals*¹ (the certificate). Her coverage was in effect from March 1, 2014, through August 31, 2015.

¹ Dated 1/1/2015.

The Petitioner had 28 chiropractic visits with [REDACTED], an out-of-network chiropractor, beginning on April 24, 2015, and ending in July 2015. When she requested coverage for those visits, BCN denied it, saying she was required to use a network provider and had not received authorization for out-of-network services.

The Petitioner appealed the denial through BCN's internal grievance process. At the conclusion of that process, BCN issued a final adverse determination dated August 21, 2015, upholding its denial. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did BCN correctly deny coverage for the Petitioner's out of network chiropractic care?

IV. ANALYSIS

Petitioner's Argument

The Petitioner stated in the request for an external review form:

I began seeing [REDACTED] on April 24, 2015 at which time, [REDACTED]. [REDACTED] assistant, contacted BCBS [sic] to see if coverage would be provided. The doctor's office was told by BCBS "yes" that that costs would be covered at which time care was then scheduled out. After about three weeks and no payment, the doctor's office called again to now be told care "would not" be covered. At this time I called and was told all I needed to do was set up an appointment for a physical with the primary doctor and once that was completed and she gave her OK for the referral, care would be covered.

So I set up an appointment, went through a physical and she approved referral to only be told again by [BCN's] grievance committee, care would not be covered. Why have I been told more than once to proceed with care and it would be covered and then you change your mind?

A grievance committee simply sent me a 75 page document marking [the] rules and regulations as to why they are "covered" for not paying.

Where does it say that when a consumer calls they will be given misleading information, begin care under the assumption it will be covered and then we can renege on the conversation any time we please because we have a set of rules you must have not read?

There are no chiropractic neurologists in my network. I called BCBS to find out and was told "No!"

Respondent's Argument

In its final adverse determination to the Petitioner, BCN told the Petitioner:

. . . Your case was reviewed by the Senior Medical Director, an M.D., who is Board Certified in Psychiatry and the Vice President of health and Medical Affairs.

The Panel has reviewed and maintained the denial as you are required to use in network providers. There are contracted chiropractors in network. Please reference your enclosed 2015 Individual Certificate, section 9.1 titled "Unauthorized and Out of Network Services".

BCN's summary of the Petitioner's grievance also contained this information:

Record from PCP office dated June 1, 2015: Patient walked in and requested referral back dated to [REDACTED] (a backdated referral request was granted after the member went through a physical on June 19, 2015; however the services need approval from BCN to be covered). Note: On April 24, 2015 records indicate [REDACTED] office called BCN and was told care would need to be authorized by PCP/BCN. (Visits began April 24, 2015.) On May 26, 2015, provider called again and was advised [REDACTED] is out of network.

Director's Review

On the first page of the certificate it says:

By choosing to enroll as a BCN Member, you, agree to abide by the rules as stated in the General Provisions and Your Benefits chapters. You also recognize that, except for Emergency health services, only those health care services provided by your Primary Care Physician or arranged and approved by BCN are covered under this Certificate.

Under "Definitions" the certificate says:

Non-Participating or Non-Participating Provider means an individual Provider, Facility or other health care entity not under contract with BCN. Unless the specific service is Preauthorized as required under this Certificate, the service will not be payable by BCN. You may be billed directly by the Non-Participating Provider and will be responsible for the entire cost of the service.

Finally, in "Section 9: Exclusions and Limitations" (p. 59), the certificate has this provision regarding out-of-network services:

9.1 Unauthorized and Out of Network Services

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

Any other services will not be paid for by BCN either to the provider or to the Member.

██████████ is a nonparticipating provider. These provisions make clear that care or treatment from a nonparticipating provider, other than emergency care, is not covered unless it has been preauthorized by BCN.

The Petitioner had no preauthorization when she began her visits with ██████████.² Therefore, the Director concludes that BCN was correct when it denied coverage for the Petitioner's chiropractic services.

V. ORDER

The Director upholds BCN's August 21, 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.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director

² While the Petitioner says she was given "misleading" information about her coverage for chiropractic services, BCN says it told ██████████ office on April 24, 2015, the day of the Petitioner's first visit, that prior authorization was required.