

**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. 150017-001**

**Blue Care Network of Michigan**  
**Respondent**

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

**ORDER**

**I. PROCEDURAL BACKGROUND**

On September 23, 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 Director accepted the Petitioner's request for external review on September 30, 2015.

The Petitioner receives group health care benefits from Blue Care Network of Michigan (BCN), a health maintenance organization. The benefits are defined in the *BCN Classic for Large Groups* certificate of coverage. The Director notified BCN of the request for review and BCN provided its response on October 1, 2015.

This case involves medical issues. The Director had the medical issues reviewed by an independent review organization which submitted its analysis and recommendation on October 14, 2015.

**II. FACTUAL BACKGROUND**

Petitioner is 49 years old. She had a breast reduction at age 20 but is now experiencing breast hypertrophy with back and shoulder pain, intermittent intertrigo, and shoulder grooving. Her physician requested that BCN preauthorize coverage for breast reduction surgery. BCN denied the request.

The Petitioner appealed the denial through BCN's internal grievance process. At the conclusion of the internal grievance process, on September 14, 2015, BCN issued a final adverse

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

### III. ISSUE

Did BCN properly deny coverage for Petitioner's proposed breast reduction surgery?

### IV. ANALYSIS

#### Petitioner's Argument

In a letter dated May 23, 2014, the Petitioner's doctor wrote:

[Petitioner] is a 49 year old female who underwent breast reduction at the age of 20. She now returns and desires to have a second reduction. Her concerns are breast hypertrophy with back and shoulder pain, intermittent intertrigo and shoulder grooving. Examination reveals bilateral mammary hypertrophy with a Grade III mammary ptosis. I estimate removing 500 grams of breast tissue per side. Schnur scale required a minimum of 835 grams per side. In view of these findings, I recommend a bilateral reduction mammoplasty....

#### Respondent's Argument

In its final adverse determination, BCN stated that the requested surgery was not medically necessary. BCN referenced the analysis it offered in its initial denial of coverage:

The BCN medical policy titled *Reduction Mammoplasty for Breast-Related Symptoms* states that breast reduction surgery may be considered medically necessary when certain guidelines are met. The following criteria were not met in the information reviewed. There is no indication that the amount of tissue to be removed is equal to or greater than the 22<sup>nd</sup> percentile on the Schnur Sliding Scale, which is a chart used by physicians to evaluate individuals being considered for breast reduction surgery. Body surface area along with average weight of breast tissue removed is taken into consideration. The amount of breast tissue removed from each breast must be equal to or greater than the 22<sup>nd</sup> percentile weight for body surface area. Based on this scale, the amount of breast tissue removed from each breast must be between 819 and 895 grams per breast. According to the information submitted only 500 grams would be removed, which is below the 22<sup>nd</sup> percentile. The request for breast reduction cannot be approved.

Director's Review

BCN's standards for breast reduction surgery and the question of whether the proposed breast reduction surgery is medically necessary were presented to an independent review organization (IRO) for a recommendation as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is board certified in plastic surgery, has been in active practice for more than 12 years and is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

The member has clear documentation of significant symptomatic macromastia, has failed reasonable conservative management and would likely improve significantly with breast reduction. The member has evidence of chronic back, neck, and shoulder pain with intermittent intertrigo and shoulder grooving.... [T]he member's symptoms have been noted to affect her function and to adversely affect her occupation, which is supported by the requesting surgeon and primary care physician. The member's primary care physician has documented chronic upper back pain related to her enlarged breasts, as well as bra straps that are cutting into her skin. The examination detail and photographs provided for review are consistent with the overall clinical picture of significant symptomatic macromastia that would likely significantly improve with breast reduction.

[T]he Schnur table appears to be overly restrictive in determining medical necessity for breast reduction....[T]he member satisfies the American Society of Plastic Surgeons criteria as she has well-documented chronic back, neck and shoulder pain, shoulder grooving and intermittent intertrigo, which has significantly impacted her activities of daily living, especially related to her occupation. (American Society of Plastic Surgeons. Recommended Insurance Coverage Criteria for Third Party Payers. [www.plasticsurgery.org](http://www.plasticsurgery.org).) Multiple medical evaluations provided confirmatory evidence of these findings.... [T]American Society of Plastic Surgeons and even Schnur himself do not support a minimum resection weight.

[T]he member has a functional problem that is directly related to her significant macromastia....[B]reast reduction is a well-known procedure that directly addresses this functional deficit and the member will likely benefit significantly from reduction surgery....[T]he fact that the requested resection weight does not satisfy the Schnur table cut-off should not be a reason for denying this medically necessary procedure as supported by the peer-reviewed literature. (Winn SR, et al. Reduction mammoplasty: a review of managed care medical policy coverage criteria. *Plast Reconstruct Surg*. 2008 Apr; 121(4):1092-1100.)

Pursuant to the information set forth above and available documentation...the requested breast reduction surgery is medically necessary for treatment of the member's condition.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the IRO's recommendation is afforded deference by the Director. 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. In addition, the IRO's recommendation is not contrary to any provision of the Petitioner's coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected in the present case, finds that the Petitioner's breast reduction surgery is medically necessary and therefore a covered benefit under the certificate.

#### V. ORDER

The Director reverses BCN's September 14, 2015, final adverse determination. BCN shall immediately provide coverage for the Petitioner's breast reduction surgery and shall, within seven days of providing coverage, furnish the Director with proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding the implementation to the Department of Insurance and Financial Services, Health Care Appeals Sections, at this toll free telephone number: (877) 999-6442.

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 Director of Insurance and Financial Services, Health Care Appeals Section, 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