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. 150409-001**

Blue Care Network of Michigan,

Respondent.

Issued and entered
this 12th day of November 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

(Petitioner) received treatment from a neurologist and a psychologist for migraine headaches. Both providers were out of network and the Petitioner's health plan, Blue Care Network of Michigan (BCN), denied coverage for the care.

On October 19, 2015, the Petitioner filed a request with the Director of Insurance and Financial Services seeking an external review of BCN's denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. On October 26, 2015, after a preliminary review of the material submitted, the Director accepted the request.

The Petitioner receives group health care benefits through 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 October 28, 2015.

The issue in this external review can be decided by 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 the *BCN Classic for Large Groups Certificate of Coverage* (the certificate).

The Petitioner has debilitating and chronic migraines. After receiving treatment from several network providers without success, she sought treatment at the [redacted]). She was seen from April 22, 2015, through June 11, 2015, by a neurologist and a psychologist. MHPNI is not in BCN's network of providers.

On May 1, 2015, BCN denied the Petitioner's request for coverage of the services at MHPNI and reimbursement of amounts she had already paid.

The Petitioner appealed the denial through BCN's internal grievance process. At the conclusion of that process, BCN issued a final adverse determination dated September 18, 2015, upholding its denial. The Petitioner now seeks a review of that final adverse determinations from the Director.

III. Issue

Did BCN properly deny coverage for the Petitioner's treatment at [redacted]?

IV. Analysis

Petitioner's Argument

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

> I have been suffering from intractable, chronic migraines for 15 years. I have been treated by many neurologists for this debilitating illness. Unfortunately, the myriad of medications and alternative treatments that I have tried have not been successful. My PCP and many neurologists told me that I needed to go to a migraine clinic where they specialize in treating patients like me who do not respond to ordinary treatment plans. My PCP wrote me an out of network authorization for the Michigan Head Pain and Neurological Institute. Have gone there several times and for the first time in many years I am feeling better. BCN does not have a clinic that specializes in the treatment of chronic, intractable migraines. I am appealing the BCN denial of my claim and think they should cover this because they are my healthcare provider and should cover the medical care that I need for my medical condition. Please consider this as a covered benefit.

Earlier the Petitioner had written to BCN about her grievance:

> As you can see, I have tried many different preventative medications to ward off the headaches, as well as, abortive medications to take when I get migraines. My Pri mary Care Physicians and Neurologists have tried to help me as much as they can over the years but told me I need to go to a Headache and Migraine Specialist. My Neurologist and I did some research and found a Head Pain clinic In Ann Arbor but they do not take BCN. My Primary Care Physician thought it was the best place for me given all the treatments I have tried with neurologists so he wrote me an authorization for an out of network doctor so I could go to the Michigan Head Pain and Neurological Institute in Ann Arbor. I have had several appointments there and I am seeing some improvements with my migraines.
>
> I needed to go to this clinic that specializes in migraines and head pain to be treated and Blue Care Network does not have the migraine specialist physician that I needed to see. Therefore, my medical expenses should be covered.

Respondent's Argument

In its final adverse determination, BCN informed the Petitioner:

> Our Step Two Grievance Panel . . . reviewed the documentation you submitted, as well as the medical records from your Primary Care Physician . . . , the Out of Network Neurologist . . . and Clinical Psychologist . . . , along with your Classic Large Certificate of Coverage. The Panel maintained the denial, stating that per section 9.1 Unauthorized and Out of Network Services: services listed in the Certificate are covered only when provided by a participating provider and preauthorized by BCN for select services. I have enclosed contact information for contracted neurology providers from the University of Michigan Health System.

Director's Review

In "Section 9: Exclusions and Limitations" (p. 58), the certificate says:

> ***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

The certificate also says this regarding referrals to a specialist (p. v):

> PCP Referral is the process by which the Primary Care Physician (PCP) directs your care to a Referral Physician (Specialist) prior to a specified service or treatment plan. The PCP must coordinate the Referral and any necessary BCN Preauthorization.

There is nothing in the record to show that the Petitioner's primary care physician formally referred the Petitioner to MHPNI and obtained BCN's preauthorization. Therefore, the Petitioner's neurological and psychological services at MHPNI are not covered benefits.

The Director finds that BCN's denial of coverage for Petitioner's neurological and psychological services from April 22, 2015, through June 11, 2015, is in accord with the terms and conditions of the certificate.

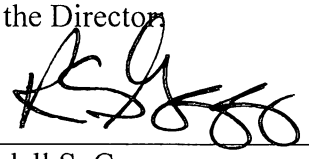
V. ORDER

The Director upholds BCN's September 18, 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