

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. 152801-001

Blue Care Network of Michigan,

Respondent.

Issued and entered
this 18th day of April 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner), a minor,¹ received residential mental health treatment in an out-of-state facility. Her health plan, Blue Care Network of Michigan (BCN), denied coverage for that care.

On March 22, 2016, ██████████, MD, the Petitioner's mother, 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 Petitioner receives 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 March 24, 2016. After a preliminary review of the material submitted, the Director accepted the request on March 29, 2016.

The issue in this external review can be decided by a contractual review. The Director reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

¹ Born December 15, 1998.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in BCN's *Certificate of Coverage for Individuals* (the certificate).

From August 18 through November 5, 2015, the Petitioner received residential mental health treatment at the Eating Recovery Center in Denver, Colorado. The facility does not participate with BCN. BCN denied coverage because it had not authorized treatment with an out-of-network provider.

The Petitioner appealed the denial through BCN's internal grievance process. At the conclusion of that process, BCN affirmed its denial in a final adverse determination dated January 22, 2016. 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 care at the Eating Recovery Center?

IV. ANALYSIS

Petitioner's Argument

In a letter dated March 17, 2016, sent with the external review request, the Petitioner's mother explained why treatment was sought at the Eating Recovery Center:

My daughter . . . was diagnosed with Anorexia Nervosa, bingeing and purging type in January of last year. At that point as far as I knew her disordered eating behaviors had been present for at least 2 years but she had only recently admitted to them and was open to accepting help. Upon the recommendation of her PCP [*primary care physician*], dietician as well as the doctors at the University of Michigan Child and Adolescent Behavior Medicine Clinic we enrolled her in the partial hospitalization program (PHP) at the UM Comprehensive Eating Disorder Program.

Initially she did well; gaining weight and cooperating with the program and was moved to their intensive out-patient program (IOP) when BCN determined she no longer qualified for the PHP level of service in spite of the fact that her treatment team felt she could benefit from further time in PHP. She was discharged after 3 weeks in IOP.

Within a few weeks of discharge her eating disorder behaviors returned resulting in rapid weight loss in spite of our best efforts to follow the Family Behavioral

Therapy method as taught to us while at UM and following up with out-patient therapy. She was seen in clinic and immediately re-admitted to the PHP program. Within a week she was hospitalized with bradycardia and hypokalemia. During this stay in PHP she continued her disordered eating behaviors and became increasingly uncooperative while at the program and at home. She also began cutting and other self-harm behaviors at this time. Her behaviors grew increasingly out of control to the point where she was throwing food, hitting and kicking us and destroying property around our house. I began to feel afraid of and for her.

At this point the staff at the PHP program said "it is our medical opinion that [the Petitioner's] symptoms cannot be adequately treated in a lower level of care" and that she needed residential treatment at a level offered by Eating Recovery Center in Denver. When asked about the in-network option of The River Center in Sylvania OH they felt that her acuity was too high and the disordered eating patterns too long standing for her to do well at there. They also felt that her depression and anxiety were beyond what could be safely and effectively handled there.

* * *

As follow-up, [the Petitioner] spent 3 months at ERC and no one there felt that she was ready to come home and that her risk of relapse was extremely high. She also continued to engage in self-harm behaviors. We elected to send her to a "Wilderness Program" for some intensive therapy as the staff at ERC did not feel she would not do well with an immediate transition to a therapeutic boarding school. She spent 10 weeks at that program. I have included their discharge summary with her records. She has since transitioned to a therapeutic boarding school and has been there for about 2 months.

* * *

We understand that ERC is an out-of-network provider and that it was not pre-authorized by BCN. I think we can all agree that she needed residential treatment and it is only the place that is the issue. I argue that we may have saved BCN money in the long run by not first going to a program that was deemed unacceptable by her expert providers at University of Michigan. It was likely that she would have needed further residential care either there or at another facility.

We are not asking for full reimbursement of all the expenses at ERC; we are only asking that BCN reimburse us the cost of what it would have been to send her to the in-network facility for the same period of time.

In a March 22, 2016, letter, physicians from the University of Michigan's eating disorders program explained why they recommended treatment at the Eating Recovery Center:

This letter is in regard to [the Petitioner]. . . . [She] was enrolled in the University of Michigan Comprehensive Eating Disorders Program which provides evidence-based care to patients with eating disorders in a partial hospitalization (PHP) and intensive outpatient program (IOP). [She], age 16, was first admitted to our program from 3/2/15 - 4/24/15 and had a second admission from 5/27/15 - 6/29/15.

Our program primarily utilizes Family-Based treatment, also called the Maudsley approach, which is the most effective and leading evidence-based treatment for adolescents with Anorexia Nervosa. Our focus was on helping [the Petitioner] eliminate bingeing and purging behaviors, normalize her eating, and weight restore to an appropriate weight while empowering her family to promote their self-efficacy in [her] recovery. After two admissions to our program, [she] continued to engage in bingeing and purging behaviors, demonstrated significant resistance to eating (throwing food on the ground, throwing utensils), physical aggression toward parents at mealtimes (hitting / kicking parents), destruction of property (broke a lamp and potted plant at home), engagement in self harm, and non-compliance with treatment recommendations (unwillingness to attend appointments with outpatient providers, refusal of her psychiatric medication and supplements).

Due to the severity of [her] symptoms and need for constant supervision, the treatment team recommended [she] seek a higher level of care. The family was encouraged to look into residential treatment centers, as the University of Michigan does not offer specialized care above the PHP/IOP level. It was our medical opinion that [the Petitioner's] symptoms could not be adequately treated in a lower level of care. As such, we guided the family to locate a program that continues family-based treatment principles at the residential level of care.

The available in-network facility . . . does not utilize a Family-Based Treatment model. Instead, the program relies on pre-packaged food, allows patients to select and prepare their own meals, and promotes calorie counting. It was our clinical determination this treatment setting and decreased emphasis on family involvement would not help [the Petitioner's] return to normalized eating. Moreover, it may inappropriately encourage label reading and calorie counting at a time when the disorder's acuity was too high for this type of intervention to be helpful.

Respondent's Argument

In the final adverse determination, BCN's representative wrote:

Our grievance panel . . . reviewed all of the documentation submitted, including policy requirements and clinical criteria, and has upheld the previous denial.

We based our decision on the fact that the medical records received did not supply any new, additional information to demonstrate that Eating Recovery Center could provide a service that could not have been provided by another, Blue Care Network (BCN), in network contracted residential treatment facility. In addition, [the Petitioner's] certificate excludes unauthorized and out of network services.

BCN's grievance summary indicates that before the Petitioner began treatment at Eating Recovery Center "the member's mother, the facility and referring specialist all called . . . and were advised that the services needed prior authorization from BCN for potential coverage."

Director's Review

According to the notes of the grievance panel meeting on January 21, 2016, an initial request was made to BCN in August 2015 to cover treatment at the Eating Recovery Center. That request was denied by BCN in an August 13, 2015, letter to the Petitioner which said:

A request was received . . . on 08/13/15 for admission to an out of network residential psychiatric facility for eating disorders. Based on the clinical information reported by the facility the member could be treated in a less intensive level of care in-network. For this reason the request for eating disorder specific residential treatment out of network is denied. This decision is based upon Blue Care Network's Behavioral Health Utilization Management Criteria for eating disorder specific residential treatment.

As explained in the Exclusions and Limitations section of your Certificate of Coverage, member care must be provided by a BCN-approved health care professional in a BCN-approved facility, unless the situation is an emergency or an in-network provider cannot offer the service. Neither of these exceptions applies to this service.

The Petitioner did not appeal that denial through BCN's internal grievance process before she began treatment on August 18, 2015. Instead, in December 2015 she sought retro-authorization after completing her stay at the Eating Recovery Center. That request was denied in January 2016.

The certificate covers mental health care (described in subsection 8.13, pp. 39-41). It says:

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.

The certificate also has these two provisions in "Section 9: Exclusions and Limitations" (pp. 59, 61):

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 BCN 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.

* * *

9.10 Mental Health/Substance Abuse

Coverage does not include the following services:

- Care provided by Non-Participating facilities except for emergency admissions to the point of stabilization. . . .

The Petitioner received non-emergency mental health services from an out-of-network (non-participating) provider without preauthorization from BCN. Based on the provisions above, the Director concludes that BCN's denial of coverage for the Petitioner's stay at the Eating Recovery Center was in accord with the terms of the certificate.

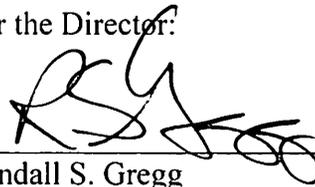
V. ORDER

The Director upholds BCN's January 22, 2016, 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 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