

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████

Petitioner

v

Blue Care Network of Michigan

Respondent

File No. 153306-001

Issued and entered
this 10th day of May 2016
by Joseph A. Garcia
Special Deputy Director

ORDER

I. BACKGROUND

On April 20, 2016, ██████████ (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 prescription drug coverage through a group plan underwritten by Blue Care Network of Michigan (BCN), a health maintenance organization. The Director notified BCN of the external review request and asked for the information it used to make its final adverse determination. BCN provided its response on April 25, 2016. On April 27, 2016, after a preliminary review of the material submitted, the Director accepted the request.

Because the case involves medical issues, it was assigned to an independent medical review organization. The IRO provided its analysis and recommendation to the Director on May 10, 2016.

II. FACTUAL BACKGROUND

The Petitioner is a 38 year-old male with a history of various sinus and nasal disorders including sinusitis, allergic rhinitis, hypertrophy of the nasal turbinates, and nasal congestion. The Petitioner's physician prescribed the drug Nasonex. BCN denied coverage.

The Petitioner appealed the denial through BCN's internal grievance process. At the conclusion of that process, BCN issued a final adverse determination dated April 8, 2016, upholding the denial. The Petitioner now seeks the Director's review of the denial.

III. ISSUE

Did BCN properly deny prescription drug coverage for Nasonex?

IV. ANALYSIS

Respondent's Argument

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

The requested medication is excluded from your drug coverage. The drug plan does indicate alternative medications, i.e. Nasacort, which there was no medical documentation submitted that indicates a failure or intolerance to this medication.

Petitioner's Argument

On the insurance complaint form, the Petitioner explained his grievance:

I have had 3 polyp removal surgeries since 2011 in each case I have used Nasacort/Flonase which causes my nose to bleed. I originally found out I am allergic to alcohol which caused my initial polyps. I have since quit drinking. I am told that Nasacort and Flonase are alcohol based. I am getting denied coverage for Nasonex which is not alcohol based and works very well without any nasal bleeding. Personally I could care less whether my medications are generic or non generic as long as it works. Obviously the other 2 are not working since Ive had 3 surgeries. I just don't want to have another surgery. I don't understand why they wouldn't want the same result.

Director's Review

BCN denied coverage for Nasonex since it was not an approved drug in BCN's drug formulary. However, Section 3406o of the Michigan Insurance Code, MCL 500.3406o, requires an insurer to provide coverage for a nonformulary drug when it is medically necessary and appropriate.

The question of whether Nasonex is a medically necessary and appropriate alternative in the Petitioner's treatment was presented to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a physician in active practice for more than 12 years who is board certified in otolaryngology. The IRO reviewer's report included the following analysis and recommendation:

[T]opical nasal steroids are an effective treatment for reducing mucosal inflammation in sinusitis patients and their role in nasal polyposis has been demonstrated, as well. The member presented with acute sinusitis with mucopurulent drainage. Nasonex nasal spray and an antibiotic were recommended for treatment of the member's condition. The member had previously tried Nasocort and Flonase and reported that these sprays led to

epistaxis. The member also reported that he has been treated surgically for polyposis on multiple occasions. The member was being treated for acute sinusitis and no polyps were noted on physical examination...[A]lthough nasal steroids can be effective in treating nasal polyposis and sinusitis, switching to Nasonex does not necessarily correct the symptoms of acute sinusitis...[T]hese steroid sprays require over several weeks of use before one notices an improvement...[I]nadvertent spraying onto the septum can cause epistaxis, which was one of the member's complaints...[W]ith instruction on proper nasal steroid spray use, the member may benefit from one of the nasal steroids that are on the Health Plan's formulary.

Pursuant to the information set forth above and available documentation... Nasonex is not 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, discern no reason why the IRO's recommendation should be rejected in the present case finds that Nasonex is not medically necessary, and therefore, is not a covered benefit.

V. ORDER

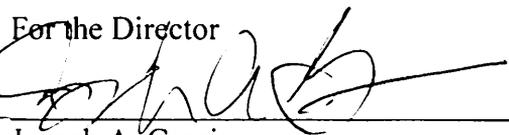
The Director upholds BCN's April 8, 2016 final adverse determination. BCN is not required to provide the Petitioner with coverage for the prescription drug Nasonex.

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 sixty 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



Joseph A. Garcia

Special Deputy Director