

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. 146819-001

Cigna Health and Life Insurance Company

Respondent

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Issued and entered  
this 7<sup>th</sup> day of April 2015  
by Joseph A. Garcia  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On March 16, 2015, ██████████ (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 (PRIRA), MCL 550.1901 *et seq.* After a preliminary review of the material received, the Director accepted the request on March 23, 2015.

The Petitioner receives health care benefits under an employer group health plan underwritten by Cigna Health and Life Insurance Company (Cigna). The Director immediately notified Cigna of the external review request and asked for the information it used to make the final adverse determination that the Petitioner is challenging.

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

**II. FACTUAL BACKGROUND**

The Petitioner's benefits are described in Cigna's *Open Access Plus Medical Benefits* certificate of coverage (the certificate).

The Petitioner was in an accident in June 2012 that resulted in the amputation of his left leg below the knee; he began using a prosthetic limb. He had an above the knee amputation on that leg in 2013, and following that surgery his prosthetic team recommended a new prosthesis.

On September 25, 2014, the Petitioner received a prosthetic device (described as “addition to lower extremity prosthesis, endoskeletal knee-shin system, microprocessor control feature, swing and stance phase, includes electronic sensor(s),” HCPCS code 5856). The charge for the prosthesis was \$22,856.00.

The Petitioner also received a lithium ion battery charger (HCPCS code 7368) on September 25, 2014, a device related to the new prosthesis. The charge for the battery charger was \$465.43

Cigna denied coverage for the two items on the basis that they were not covered benefits under the Petitioner’s health plan. The prosthetic provider, on the Petitioner’s behalf, appealed the denial through Cigna’s internal grievance process. At the conclusion of that process Cigna issued a final adverse determination dated January 16, 2015, affirming its original benefit determination. The Petitioner now seeks a review of that adverse determination from the Director.

### III. ISSUE

Did Cigna correctly deny coverage for the prosthetic device and the lithium ion battery charger?

### IV. ANALYSIS

#### Petitioner’s Argument

The external review request form contained these statements, apparently written by the prosthetic provider:

We were told by two representatives of Cigna that all codes were valid, billable, and did not require Prior Authorization. Cigna misrepresented the patient’s policy and caused harm to this practice and the patient by not covering the codes that are interdependent on each other. Please review all documentation.

For its appeal through Cigna’s internal appeal process, the Petitioner’s prosthetic provider wrote:

We contacted your provider relations rep and went through each code, one at a time, to identify if the codes were valid and billable, also if we needed prior authorization. We were told ALL covered and billable and that none needed a PA [*prior authorization*].

We have been trying to process this claim in accordance with the information provided by your representatives and as you will see from the task log have been given conflicting information ever since the first processing of the claim.

On September 11, 2014, my billing manager called Cigna to find out if any of the codes for the patient needed pre-certification. She spoke with Jone A. and went through each code. None of the codes needed to be pre-certified. She also stated that each code was VALID and BILLABLE. . . . Then he spoke with Alisha - the claims specialist who also went over each code and was given identical information as Jone A. . . .

On 12/2 - we were told that the employer ceased to fund the account and that was the reason for denial.

On 12/11 we were told that the two codes in question were not covered under the patient's plan type. I was told that if I knew the date of the conversation that you could pull the recordings and we could appeal based on a customer service misquote.

\* \* \*

On 12/17 [REDACTED] contacted me to say that I would have to file a formal appeal.

### Respondent's Argument

In its final adverse determination Cigna provided this explanation for its denial of coverage:

After reviewing the appeal request that was submitted . . . as well as all supporting documentation, including the benefit plan, the Appeals Committee decided to uphold the original decision to maintain the benefit exclusion denial for the lithium ion battery charger (procedure code L7368) and microprocessor control feature (procedure code L5856)...

This decision was based on the following:

- The information provided does not support coverage of a microprocessor control knee and lithium battery (L5856 and L7368) for an above knee prosthesis. Your health plan benefits do not provide coverage for prosthetic external and internal power enhancements or power controls for prosthetic limbs and terminal devices. Therefore, L5856 and L7368 are not covered benefits under your health plan.

### Director's Review

Under "External Prosthetic Appliances and Devices," the certificate explains the coverage for medically necessary prosthetic devices but also has this exclusion (pp. 30, 31):

The following are specifically excluded external prosthetic appliances and devices:

- external and internal power enhancements or power controls for prosthetic limbs and terminal devices; . . .

Based on this exclusion, the Director concludes and finds that Cigna was correct when it denied coverage for the prosthetic device and battery charger.

It is the Petitioner's contention that Cigna gave incorrect information to the prosthetic provider and that the provider acted in reliance on that information when it furnished the prosthetic device and battery charger to the Petitioner. But even if that is true, the Director has no authority to amend the terms of the Petitioner's certificate and order coverage based on an allegation that a provider was misinformed about the patient's benefits. In this external review under the Patient's Right to Independent Review Act, the Director may only decide whether Cigna has properly administered health

care benefits according to the terms and conditions of the certificate. In this case, the Director finds that Cigna did.

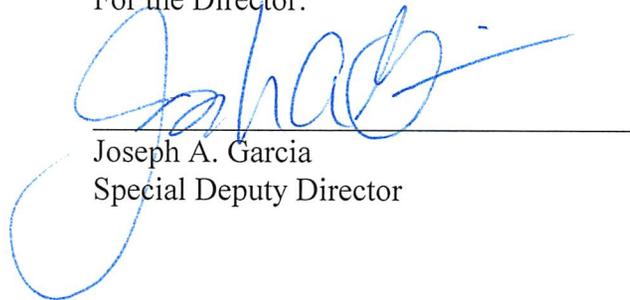
**V. ORDER**

The Director upholds Cigna Health and Life Insurance Company's January 16, 2015, 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 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, Health Care Appeals Section, Post Office Box 30220, Lansing, MI 48909-7720.

Annette E. Flood  
Director

For the Director:



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Joseph A. Garcia  
Special Deputy Director