

**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. 151761-001**

**Golden Rule Insurance Company**  
**Respondent**

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Issued and entered  
this 19<sup>th</sup> day of February 2016  
by **Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On January 19, 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 medical benefits through a plan underwritten by Golden Rule Insurance Company. The Director notified Golden Rule of the external review request and asked for the information used to make its final adverse determination. The Director received Golden Rule's response on January 22, 2016. After a preliminary review of the material received, the Director accepted the request on January 26, 2016.

To address the medical issues in the case, the Director assigned the matter to an independent medical review organization which provided its analysis and recommendation to the Director on February 9, 2016.

**II. FACTUAL BACKGROUND**

The Petitioner, who is █ years old, underwent a colonoscopy on August 31, 2015. Golden Rule approved \$2,214.17 as its approved amount for the services. After applying \$1,842.83 in cost sharing requirements (a \$1,750.00 deductible and \$92.83 in coinsurance), Golden Rule paid \$371.34.

The Petitioner believes he should not have any cost sharing requirements for the

colonoscopy. He appealed Golden Rule's decision through its internal grievance process. At the conclusion of that process, on November 30, 2015, Golden Rule issued a final adverse determination affirming its original decision. The Petitioner now seeks the Director's review of that adverse determination.

### III. ISSUE

Did Golden Rule correctly process the claim for the Petitioner's August 31, 2015 colonoscopy?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, Golden Rule explained its benefit decision:

Your health insurance plan includes a Preventive Care Expense Benefits provisions. We would like to explain the Preventive Care benefits that are included in the federal Patient Protection and Affordable Care Act (PPACA).

These preventive services are covered without a deductible, copay, or coinsurance, when a preferred or network provider is used. Covered preventive are those services described in one of the following: (USPSTF) United States Preventive Services Task Force (A and B recommendations), Advisory Committee on Immunization Practices (ACIP) recommendations, and Health Resources and Service Administration guidelines for women and children.

The submitted information was reviewed by a Licensed Board Certified in Family Medicine doctor. The medical reviewer explains preventive health care is that provided to asymptomatic individuals to screen for the presence of disease. Included among the recommendations for preventive health care services to be provided without cost sharing is a colonoscopy each 10 years. [Petitioner] is not an asymptomatic person due to the abnormal finding of polyps in the past.

#### Petitioner's Argument

In his request for an external review, the Petitioner wrote:

I believe my colonoscopy should be fully covered. I was asymptomatic (no gastrointestinal signs or symptoms). Having a previous polyp does not make me symptomatic. [The] purpose of screening is to remove polyps – which there was none. This was a routine "surveillance screening" done after five years per doctor's orders. There were no current symptoms.

Director's Review

The federal Patient Protection and Affordable Care Act (PPACA) requires health plans and health insurers offering group or individual health insurance coverage to provide benefits for certain preventive care services without imposing cost sharing requirements. See 42 USC § 300gg-13 and regulations at 45 CFR §147.130. The required preventive care benefits are those recommended by the United States Preventive Services Task Force and include “screening for colorectal cancer” (for example, a colonoscopy).

The Director presented the question of whether the Petitioner's colonoscopy and related services were preventive care 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 18 years who is board certified in gastroenterology and is familiar with the medical management of patients with the Petitioner's condition. The reviewer's report included the following analysis and recommendation:

[T]he indication for the colonoscopy procedure in August 2015 was surveillance because the member had a polyp diagnosed in 2010 and recommendation was to return in 5 years. The surveillance examination was normal....[T]he member had no signs or symptoms of potential colorectal disease and therefore, this examination was not diagnostic....[T]he examination was performed in order to prevent the development of colon cancer....[I]n patients with a history of an adenomatous polyp, it is recommended to perform the next preventive examination in either 3 or 5 years depending on the number and size of the polyps at the index examination. Therefore...the statement in the Health Plan's final determination dated 11/30/15 that “included among the recommendations for preventive health care services to be provided without cost sharing is a colonoscopy each 10 years” is not consistent with current medical standards of care.

Pursuant to the information set forth above and available documentation...the colonoscopy performed on 8/31/15 was preventive in nature....

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the 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 recommendation is based on experience, expertise, and professional judgment. Furthermore, it is not contrary to any provision of the Petitioner's certificate of coverage. The Director can discern no reason why the IRO's recommendation should be rejected in this case and finds that the colonoscopy the Petitioner received on August 31, 2015, was a preventive procedure not subject to cost sharing requirements.

**V. ORDER**

The Director reverses Golden Rule's November 30, 2015 final adverse determination. Golden Rule Insurance Company shall immediately provide coverage with no cost sharing for the Petitioner's colonoscopy. See MCL 550.1911(17). Golden Rule shall, within seven days of providing coverage, furnish the Director with proof that it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding its implementation to the Department of Insurance and Financial Services, Health Care Appeals Section, 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 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:

A handwritten signature in black ink, appearing to read 'R. S. Gregg', is written over a horizontal line.

Randall S. Gregg  
Special Deputy Director