

**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. 148527-001**

**Health Alliance Plan of Michigan,**

**Respondent.**

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**Issued and entered**  
**this 21<sup>st</sup> day of July 2015**  
**by Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 26, 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, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits through Health Alliance Plan of Michigan (HAP), a health maintenance organization. The Director immediately notified HAP of the external review request and asked for the information it used to make its final adverse determination. The Director received HAP’s response on July 1, 2015. On July 6, 2015, after a preliminary review of the information submitted, the Director accepted the request.

This case can be resolved by applying the terms of the Petitioner’s coverage; it does not require a medical opinion from an independent review organization. MCL 550.1911(7).

**II. FACTUAL BACKGROUND**

The Petitioner’s health care benefits are defined in the HAP *HMO Subscriber Contract* (the contract) and its “Summary of Benefits and Coverages.”

On January 27, 2015, Petitioner went to the office of her allergist, a network provider, where she had a spirometry test, a measurement of breathing capacity (CPT code 94060). HAP

approved \$168.28 for the office visit and test and, after applying \$59.09 to the Petitioner's unmet deductible for the spirometry test and a \$20 office visit copayment, paid the provider the balance of \$89.19.

The Petitioner, believing HAP should not have applied its allowed amount for the spirometry test to her deductible, appealed through HAP's internal grievance process. At the conclusion of that process, HAP issued a final adverse determination dated May 18, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did HAP correctly process the claim for the spirometry test?

### IV. ANALYSIS

#### Petitioner's Argument

In an appeal letter to HAP dated April 27, 2015, the Petitioner explained why she wants HAP to waive the deductible for the spirometry test:

Compared to other medical offices I visited in the past, at this office no one indicated any verification of the services provided with the insurance company. Most of the places would not even proceed with the consultation unless they made sure that the patient is aware of the services, the insurance coverage and the billing implications. This way the patient can make an informed, educated decision.

Because it appears that [my doctor's] medical office's representatives made a few false statements based on which your decision was made, I deem necessary to submit for your review the facts as I know them.

When I presented myself to the office on January 27, 2015 I was introduced to one of the consultation rooms and during the preliminary questioning I was asked by the nurse whether I had respiratory problems. I very clearly stated that I did not have any respiratory problems. Moreover, if she would've checked my history record she would've concluded the same without additional waste of time (or my money for that matter). Considering this, I believe that I had the right to know why this procedure was necessary and given a chance to refuse service if I wanted to (which I believe to be my right as a patient).

... I never stated that I had "nasal/ sinus concerns and eczema." I would like to know if this statement came from my medical record, in which case we have a

different problem or, it is something they came up with to justify the necessity of the spirometry test.

Respondent's Argument

In its final adverse determination, HAP told the Petitioner:

The following is in response to the Second Level Appeal that we received on May 4, 2015 requesting waiver of the \$59.09 deductible for a Spirometry test performed on January 27, 2015. . . .

\* \* \*

We upheld the denial because, as stated in Section 3.6 of your HMO Subscriber contract, the deductible is your contractual responsibility.

- The Physician's recommendations of care are no guarantee of your full recovery
- You accepted the test recommendations.

Earlier, HAP had investigated the Petitioner's complaint during the internal grievance process and informed the Petitioner of its findings in a letter dated April 7, 2015:

Your office visit record of 1/27/15 was reviewed and it showed that you presented to the allergy office with complaints of nasal/sinus concerns and eczema. You reported swelling and dry skin around your eyes with feelings of burning. According to the office staff, [your doctor] was not in that office location that day, therefore, you were examined by the Physician Assistant. Based on your exam, your upper eyelids were reddened and darkened at corners of the eyes. This is common in people suffering from allergies. You also reported skin tightening and that you've tried multiple lotions without any relief. The medications, Protopic and Pramoxone, were discussed with you in which you reported not remembering if they were beneficial in the past. These were prescribed for your face skin and the use was for only 1-2 weeks. The spirometry test was performed to establish a baseline of your pulmonary function. This is generally done every 3-4 months for allergy patients. You had not been seen at that office in 2 years. Treatment cannot be determined without a baseline of your current status. Based on the records reviewed, your allegations cannot be substantiated. Therefore, it has been determined to not be a quality of care concern at this time.

Director's Review

In this review, the Director examined the terms and conditions of the Petitioner's coverage to determine if the claim, submitted by an eligible network provider, was processed correctly as submitted.

According to the contract (subsection 4.24, p. 19), therapy and testing for the treatment of allergies are covered services. The "Summary of Benefits and Coverages" (p. 3) says that such diagnostic tests from a network provider are covered 100% after the deductible has been met.

The "Summary of Benefits and Coverages" (p. 1) also indicates that the annual deductible is \$125.00 for an individual or \$250.00 for a family. The explanation of benefits statement dated February 17, 2015, shows that neither the individual nor family deductible had been met at the time the Petitioner received the spirometry test. Therefore, based on the foregoing, the Director concludes that HAP correctly processed the claim for the spirometry test when it applied its allowed amount of \$59.09 to the Petitioner's deductible.

It is the Petitioner's contention that the spirometry test was not medically necessary, that it was performed for a condition she did not have. Unfortunately, that issue must be addressed by the Petitioner's physician or through a complaint filed in another forum. The Director does not have any regulatory authority over physicians.

#### V. ORDER

The Director upholds HAP's final adverse determination of May 18, 2015.

This is a final decision of an administrative agency. 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. MCL 550.1915(1). 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:



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Randall S. Gregg  
Special Deputy Director