

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

In the matter of:

[REDACTED]
Petitioner,

v

File No. 148803-001

Health Alliance Plan of Michigan,
Respondent.

Issued and entered
this 11th day of August 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

[REDACTED] (Petitioner) was denied coverage for a prescription drug by his health carrier. On July 14, 2015, he filed a request with the Director of Insurance and Financial Services seeking an external review of that denial under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.*

The Petitioner receives health care benefits, including prescription drug coverage, 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. HAP provided its response on July 17, 2015, and, after a preliminary review of the material submitted, the Director accepted the Petitioner's request on July 21, 2015.

Because the case involves medical issues, it was assigned to an independent medical review organization which provided its analysis and recommendation to the Director on August 4, 2015.

II. FACTUAL BACKGROUND

The Petitioner's benefits are defined in the *HAP HMO Subscriber Contract* (the contract) and *Rider H948 - Outpatient Prescription Drug Copayment Rider* (the drug rider).

The Petitioner was diagnosed with hypogonadism (low testosterone levels). His physician asked HAP to authorize coverage for the drug AndroGel 1.62% to treat his condition. HAP denied the request on the basis that Petitioner did not meet its criteria for use of the drug.

The Petitioner appealed the denial through HAP's internal grievance process. At the conclusion of that process, HAP issued a final adverse determination dated May 13, 2015, upholding its denial. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did HAP properly deny prescription drug coverage for AndroGel 1.62% to treat the Petitioner's condition?

IV. ANALYSIS

Petitioner's Argument

On the external review request form, the Petitioner explained why the AndroGel was prescribed:

Hypogonadism, low testosterone levels. Symptoms include but not limited to: fatigue, reduced energy/stamina, depressed mood, irritability.

* * *

Based on physician records and confirmed laboratory results supporting Hypogonadism and low testosterone products for my medical condition. HAP previously approved AndroGel from April 2012 to May 2014.

In an undated letter of support for continued treatment with AndroGel, the Petitioner's physician said:

[The Petitioner] has been using AndroGel 1.62% since 2009. He has been doing well with this medication and wishes to take it still.

I have attached laboratory results with this letter.

I strongly believe that he needs to be on AndroGel 1.62%. This medication is the best option for him and his current treatment plan.

Respondent's Argument

It is HAP's position that AndroGel 1.62% was not medically necessary for the Petitioner because he did not meet its criteria for coverage. In its final adverse determination, HAP told the Petitioner:

Our Decision:

We upheld our denial because the coverage criteria for AndroGel have not been met.

As part of our investigation, your request was reviewed by our Pharmacy Care Management (PCM) Department and one of our Licensed Pharmacists, who was not involved in the initial denial request.

You are being treated for Hypogonadism. However, the coverage criteria for the use of AndroGel for Testosterone replacement require documentation in the medical records of a non-modifiable underlying medical condition, causing low Testosterone levels.

Specific examples of underlying medical conditions of primary or secondary Hypogonadism include: Klinefelter Syndrome, Anorchia, Orchitis, Cryptorchidism, Myotonic Dystrophy, Leydig Cell Aplasia, and Noonan syndrome. Your Medical Records do not show that you have an underlying medical condition as stated above. Therefore, the decision to deny your request for coverage of AndroGel is upheld.

Director's Review

To determine if AndroGel is medically necessary to treat the Petitioner's condition, the Director presented the issue to an independent review organization (IRO) as required by section 11(6) of the PRIRA, MCL 550.1911(6).

The IRO physician reviewer is board certified in internal medicine and endocrinology and has been in active practice for more than twelve years and is familiar with the medical management of patients with the Petitioner's condition. The IRO reviewer's report included the following analysis and recommendation:

This case concerns a [REDACTED] year-old male who has requested authorization and coverage for AndroGel. The Health Plan denied this request on the basis that the member does not meet its criteria for coverage of this medication.

* * *

The Health Plan indicated that the member does not meet its criteria for coverage of this medication. The Health Plan explained that its coverage criteria for the use of AndroGel for testosterone replacement require documentation in the medical records of a non-modifiable underlying condition causing low testosterone levels. . . .

Recommended Decision:

The MAXIMUS physician consultant determined that AndroGel is not medically necessary for treatment of the member's condition.

Rationale:

* * *

According to the American Association of Clinical Endocrinologists (AACE) Guidelines, testosterone therapy is indicated in male patients with a history of primary or secondary hypogonadism with documented low testosterone. . . . The MAXIMUS physician consultant indicated that based on the records provided for review, this member has borderline low testosterone levels of 232 and 267. The physician consultant explained that there was no documentation of low free testosterone levels, luteinizing hormone (LH) or follicle-stimulating hormone (FSH) levels documenting the presence of primary or secondary hypogonadism.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the member does not meet the Health Plan's criteria

for coverage of AndroGel and this medication is not medically necessary for treatment of the member's condition at this time. [Citations omitted]

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 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, discerning no reason why the IRO's recommendation should be rejected in this case, finds that HAP's denial of coverage for the prescription drug AndroGel 1.62% as not medically necessary and therefore, not a covered benefit, is consistent with the terms of the Subscriber Contract and prescription drug rider.

V. ORDER

The Director upholds HAP's May 13, 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 sixty 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, 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