

**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. 149776-001**

**Health Alliance Plan of Michigan,**

**Respondent.**

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**Issued and entered**  
**this 6<sup>th</sup> day of October 2015**  
**by Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

 (Petitioner) was dissatisfied with his health plan's decision to remove him and his family from participation in a "health engagement program" that would have reduced their out-of-pocket costs.

On September 10, 2015, he filed a request with the Director of Insurance and Financial Services for an external review of that decision under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner and his family receive group health care benefits through Health Alliance Plan of Michigan (HAP), a health maintenance organization. The Director notified HAP of the external review request and asked for the information it used to make its final adverse determination. HAP submitted the requested information on September 15, 2015. After a preliminary review of the material submitted, the Director accepted the request on September 17, 2015.

The issue in this external review 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 Petitioners' health care benefits are defined in HAP's *HMO Subscriber Contract. Rider 301 - Health Engagement Program* amends the contract to establish a health engagement program called Aspire

that rewards the HMO's members who adopt certain healthy practices by lowering their cost sharing for health care services (referred to as "enhanced benefits").<sup>1</sup>

The Petitioner initially enrolled in the Aspire program on April 1, 2012. In order to continue to receive enhanced benefits for the 2015 calendar year, the Petitioner and his wife were required to complete three steps by March 31, 2015:

- have their physician complete the member qualification form (MQF);
- obtain a score of at least 80 points on the MQF; and
- complete the free online Health Risk Assessment (HRA).

The Petitioner's physician completed the MQF within the qualification period, but according to HAP, neither the Petitioner nor his wife completed the HRA by the March 31, 2015, deadline. Consequently, on April 1, 2015, HAP returned him and his family to "standard benefits" with higher cost sharing. Members in the standard benefits plan must wait twelve months before reapplying for enhanced benefits.

The Petitioner appealed HAP's decision through its internal grievance process, asking to be reinstated in the enhanced benefits plan as of April 1, 2015. At the conclusion of the grievance process, HAP decided to return the Petitioner and his family to enhanced benefits as of July 1, 2015, and issued a final adverse determination dated July 24, 2015, reflecting that decision.

The Petitioner now seek a review of that final adverse determination from the Director.

### III. ISSUE

Did HAP correctly remove the Petitioner from the Aspire enhanced benefit program?

### IV. ANALYSIS

#### Petitioners' Argument

In a statement dated September 8, 2015, that was included with his external review request, the Petitioner wrote:

Due to mental and physical duress related to [my wife's] pregnancy, a portion of the requirements for HAP's Enhanced Benefit Plan were not met. . . . As a result, HAP removed the [our family] from the Enhanced Benefit Plan and placed them into the Standard Benefit Plan, effective April 1, 2015.

I filed a grievance with HAP on May 19, 2015 to request placement back into the Enhanced Benefit Plan. After a second-level appeal, HAP partially accepted the grievance. HAP did not reinstate to the date the coverage initially changed (April 1, 2015) . . . they

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<sup>1</sup> Health maintenance organizations are permitted to offer these programs. See MCL 500.3517.

reinstated to July 1, 2015. During the grievance process, my wife spoke with a HAP representative who informed her that upon acceptance, they would be reinstated into the Enhanced Plan on the date it was originally changed (April 1, 2015). A reason was not provided for the selection of July 1.

As a loyal HAP member for 20+ years and after thousands of dollars paid in premiums, this is an unfortunate outcome. It is with reluctance that I assume HAP does not want to pay for the birth of my son (June 16, 2015), hence the later effective date. Ethically and morally, I hope I am wrong. The effective date of July 1, 2015 does not make sense, nor does it coincide with the information communicated to my wife. . . .

The Petitioner wants to be reinstatement in the enhanced benefit plan effective April 1, 2015.

### Respondent's Argument

In its final adverse determination, HAP informed the Petitioner:

. . . On June 30, 2015, we received your second level appeal, requesting reinstatement into the Enhanced Benefit Plan.

Final Internal Adverse Benefit Determination: The Appeal and Grievance Committee carefully considered the information you presented during the Appeal Hearing. After review, the Committee has upheld the denial of your request to be reinstated into the Enhanced Benefit Plan as of April 1, 2015. However, based on the circumstances regarding your appeal, a decision has been made to partially approve your request and reinstate you back into the Enhanced Plan effective July 1, 2015.

In a letter dated September 15, 2015, submitted for this external review, HAP further explained its position:

The First Level Appeal was denied because [the Petitioner and his wife] did not complete the online HRA during the qualification period. Both . . . completed the online HRA on May 21, 2015. The Second Level Appeal granted the members a transfer from the Standard Benefit Plan to the Enhanced Benefit Plan effective July 1, 2015, due to the circumstances surrounding [Petitioner's wife's] health.

We applaud their successful effort in completing the MQF within the qualification period. Unfortunately, this alone does not complete the Health Engagement program requirements. HAP partners with [the Petitioner's employer] to ensure that members meet all of the Health Engagement program requirements before the specified deadline. The Health Engagement Welcome Kit is sent only to the subscriber... and it contains the MQFs for both the subscriber and spouse. However, the Health Engagement reminder letters are sent separately to the subscriber and the spouse.

HAP provided copies of individual letters dated January 27 and February 24, 2015, that were sent to the Petitioner and his wife reminding them to complete the steps to remain in enhanced benefits.

Director's Review

The health engagement program rider and the letters that HAP sent to the Petitioners clearly explain what must be done to remain in the enhanced benefits program. The Petitioner acknowledged that he and his wife did not complete one of the steps (completion of the HRA forms) by the March 31, 2015, deadline. The opportunity to re-enroll for enhanced benefits occurs in the first 90 days of the succeeding benefit year. As the rider says, "The right to receive the Health Engagement Benefits is not retroactive."

HAP, however, made an exception due the circumstances surrounding the health of Petitioner's wife, and reinstated the Petitioner and his family's coverage in the enhanced benefit program effective July 1, 2015. While the Petitioner wanted the enhanced benefits restored on April 1, 2015, the Director finds nothing in the rider, in the subscriber contract, or in Michigan law that would require HAP to do so under the circumstances in this case.

The Director finds that HAP's decision to place the Petitioners in standard benefits after March 31, 2015, was in accord with the terms of the health engagement program rider, and its decision to restore those benefits on July 1, 2015, was within its discretion.

**V. ORDER**

The Director upholds Health Alliance Plan of Michigan's July 24, 2015, final adverse determinations.

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 Director 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