

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. 154007-001

Health Alliance Plan of Michigan,
Respondent.

Issued and entered
this 20th day of July 2016
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for magnetic resonance imaging (MRI) by her health plan, respondent Health Alliance Plan of Michigan (HAP), a health maintenance organization.

On June 6, 2016 the Petitioner filed a request with the Director of Insurance and Financial Services for an external review of that denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Director immediately notified HAP of the external review request and asked for the information it used to make its final adverse determination. HAP responded on June 8, 2016. After a preliminary review of the material submitted, the Director accepted the request on June 13, 2016.

To address the medical issue in dispute, this case was evaluated by an independent medical review organization which provided its recommendation to the Director on July 11, 2016.¹

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are described in HAP's *HMO Group Subscriber Contract* (the contract).

¹ The IRO's recommendation was dated July 6, 2016, but was not received until July 11, 2016.

The Petitioner was diagnosed with a colon adenoma, a precancerous tumor or polyp. When she asked HAP to cover an MRI, HAP denied the request, saying an MRI is not medically necessary to treat or diagnose her condition.

The Petitioner appealed the denial through HAP's internal grievance process. At the conclusion of that process HAP issued a final adverse determination dated June 2, 2016 upholding its decision. The Petitioner now seeks review of that final adverse determination from the Director.

III. ISSUE

Did HAP correctly deny authorization for the Petitioner's MRI?

IV. ANALYSIS

Petitioner's Argument

The Petitioner explained her request in a June 5, 2016, e-mail:

I am requesting an External Review for a MRI that has been denied by my insurance company HAP/HMO. Also, if this process takes us past 7/1/16, and I am approved for the MRI, I am requesting HAP pay for it in its entirety and it not be applied to my new deductible starting 7/1/16.

On 5/18/16 [my physician] requested an MRI. HAP denied coverage for these services. I called and complained to HAP so a review / grievance was put in order. HAP contacted [my physician] and ask[ed] for my medical information to be faxed. It was faxed on 6/1/16. . . . HAP claimed they did not receive it so denied my services again. I called and complained so they said I would need to contact you for further assistance in this matter.

I was diagnosed with a colon adenoma. A precancerous tumor. HAP would cover a CT scan but I fear being exposed to the radiation since I already have a diagnosis with risk of cancer. I consulted with a radiologist . . . at Beaumont Hospital when I went for an ultrasound on 5/31/16. He said I had legitimate concerns about being exposed to the radiation with my pre-existing condition. I also consulted with [a physician assistant] . . . on 5/19/16. She also agreed with my concern about the radiation exposure with my colon adenoma.

* * *

One more concern I have is that my insurance deductible renews 7/1/16. I wanted to have this MRI done before then so I would not have to pay toward my deductible. I have been very healthy and this is the first year I even used my insurance so much.

HAP's Argument

In its June 2, 2016 final adverse determination, HAP explained that it covers MRI (contract, p. 9) but that it denied coverage in the Petitioner's case because it was not medically necessary:

. . . HAP has reviewed your Expedited Appeal for CPT 72197 (MRI of pelvis, with and without contrast). The office records obtained and reviewed do not include the final pathology report from the May 10, 2016 colonoscopy biopsy of a large colon polyp. It is noted that a CT scan of the abdomen and pelvis, with contrast, was approved on May 25, 2016 (CPT 74177). Based on the review you do not meet the criteria for CPT 72197 (MRI of pelvis, with and without contrast). Therefore, the previous denial is maintained.

As part of our investigation, your request was reviewed by our Senior Medical Director, a board certified Doctor of Internal Medicine who was not involved in the initial denial, and our Appeal and Grievance Officer.

We reviewed the following documents and statements to make this decision:

- The eviCore Pelvis Imaging Guidelines and eviCore Oncology Imaging Guidelines, (both versions effective March 18, 2016).

Director's Review

The contract (p. 34) excludes coverage for "[s]ervices and supplies not medically necessary." The contract (p. 54) also include the following definition:

Medical Necessity or Medically Necessary means a determination, made in accordance with well-established professional medical standards as reflected in scientific and peer-reviewed medical literature, that Covered Services are:

- a. Consistent with and essential for diagnosis and treatment of Your condition, disease, ailment or Injury;
- b. The most appropriate supply or level of service that can be provided safely;
- c. Provided for the diagnosis or direct care and treatment of Your condition, disease, Injury or ailment;
- d. Not provided primarily for Your convenience, or the convenience of Your family, Physician or other caretaker; and
- e. More likely to result in benefit than harm. . . .

To answer the question of whether an MRI is medically necessary to treat the Petitioner, the Director assigned the case to an independent review organization (IRO) as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO physician reviewer is board certified in radiology and has been in practice for more than 15 years. The IRO report included the following analysis and recommendation:

Recommended Decision:

The MAXIMUS physician consultant determined that the requested MRI is medically necessary for treatment of the member's condition.

Rationale:

* * *

The results of the consultant's review indicate that this case involves a 55 year-old female who has a history of a precancerous polyp in the sigmoid colon, which was removed and was 1.9 cm, as well as a couple of other colonic polyps. At issue in this appeal whether the requested MRI is medically necessary for treatment of the member's condition.

No malignancy was diagnosed. There were no abnormal laboratory values or other imaging findings to indicate malignancy or metastases. The order for CT of the abdomen and pelvis had been approved presumably as a screen for occult metastases or local invasion. The member reported concern about radiation exposure.

The MAXIMUS physician consultant explained that the member's concern about radiation exposure from a single CT study of the abdomen at age 55 does not seem reasonable since radiation risk is also explained that the radiation dose from a single scan of the abdomen and pelvis is minimal. However, the consultant indicated that pre-operative evaluation of the abdomen and pelvis by cross sectional imaging is common despite the lack of malignant cells from the removed polyps. The physician consultant indicated that MRI is thought to be the best test to evaluate for local and distant spread in this case according to the American College of Radiology (ACR) appropriateness criteria and surpasses the utility of a CT scan in this particular scenario.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that the requested MRI is medically necessary for treatment of the member's condition.

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 analysis is based on experience, expertise, and professional judgment. In addition, the IRO's recommendation is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected in this case, finds that the requested MRI is medically necessary, and is therefore a covered benefit under the terms of the contract.

The Director cannot agree to the Petitioner's request that HAP be ordered to "pay for [the MRI] in its entirety and it not be applied to my new deductible starting 7/1/16." Presumably the Petitioner had met her deductible at the time the MRI was requested and it would have been covered without any cost sharing had it been performed before July 1, 2016. However, the contract (p. 8) says: "An expense for a service or supply is incurred on the date the service or supply is furnished." Thus, the expense for the MRI will be based on the terms and conditions in effect on the date it was furnished.

V. ORDER

The Director reverses HAP's final adverse determination dated June 2, 2016.

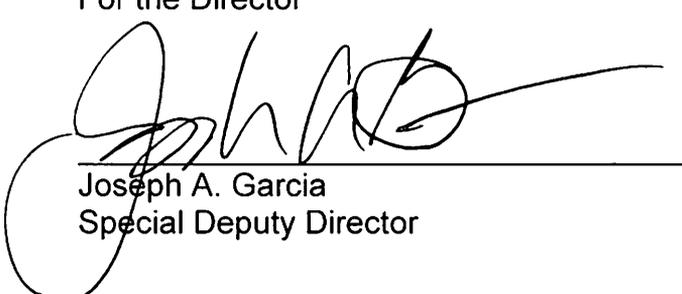
HAP shall immediately cover the Petitioner's MRI and shall, within seven days of providing coverage, furnish the Director with proof it has implemented this Order.

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 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



Joseph A. Garcia
Special Deputy Director