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. 146262-001**

Health Alliance Plan of Michigan
Respondent

Issued and entered
this 6th day of March 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. Procedural Background

On February 10, 2015, (Petitioner) filed a request for external review with the Director of Insurance and Financial Services 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 Petitioner's health care benefits are defined in HAP's *HMO Subscriber Contract* as amended by *Rider RK30-Prescription Drug Copayment Rider*.

The Director notified HAP of the external review and requested the information used in making its adverse determination. HAP's response was received on February 11, 2015. After a preliminary review of the material received, the Director accepted the case on February 18, 2015.

This case presents an issue of contractual interpretation. 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 Petitioner has a narrow esophagus and accumulates acid in her stomach. On July 30, 2014, Petitioner choked on some food and went to the emergency room of Hospital. She was then sent to in where the obstruction was removed. Her treating physician prescribed omeprazole to treat her condition. The Petitioner requested that

HAP provide coverage for the omeprazole, which is the generic equivalent to Prilosec. Omeprazole is available as an over-the-counter drug. HAP denied the request for coverage.

The Petitioner appealed the denial through HAP's internal grievance process. HAP maintained its denial and issued its final adverse determination on December 23, 2014. The Petitioner now seeks a review of that determination from the Director.

III. Issue

Did HAP correctly deny coverage for the prescription drug omeprazole?

IV. Analysis

Petitioner's Argument

In her request for an external review, the Petitioner explained why she is seeking coverage for Prilosec:

> I had to go to the emergency room on 7/30/14 because I was choking on meat. They gave me a script for Prilosec. I saw my own gastroenterologist [redacted] in Aug. He had to perform (3) three EGD procedures on 8/6/14, 8/20/14, and 10/24/14. He then told me I needed Prilosec the rest of my life. I was informed if a chronic problem, insurance would cover the script.

Respondent's Argument

In the final adverse determination to the Petitioner, HAP's representative wrote:

> According to the Benefit Rider (HK30) your employer purchased, your current prescription benefit does not cover Proton Pump Inhibitors (PPI), unless it is for the management of Zoellinger-Ellison Syndrome or Barrett's Esophagitis. However, after a detailed discussion, it was determined that this medication can be purchased without a prescription over the counter. Therefore, we are unable to approve your request.

Director's Review

Section 5 of the *Subscriber Contract* (page 19) lists the benefit plan's exclusions and limitations. This section of the subscriber contract is replaced by the following provision in Rider RK30:

> The Section entitled **Exclusions and Limitations** is amended by deleting **Drugs, Dietary Drugs, Food and Food Supplements** and replacing it with the following:
>
> **Drugs, Dietary Drugs, Food and Food Supplements**

* * *

2. Medications available as non-prescription (over-the-counter) medications.

* * *

9. Proton pump inhibitor drug (e.g., Omeprazole®, Prilosec®, Zegerid®, Nexium®, Achiphex®, Prevacid, Protonix) except in prior authorized cases of Barrett's Esophagitis or Zoellinger-Ellison Syndrome.

The Petitioner argues that she has a chronic condition and therefore HAP should provide coverage for Prilosec. Coverage for the prescription drug omeprazole is specifically excluded by the *Subscriber Contract*'s rider. The rider makes no exception for medications for chronic conditions. Further, there is nothing in the case file to indicate that Petitioner has a diagnosis of Zoellinger-Ellison Syndrome or Barrett's Esophagitis.

The Director finds that HAP's denial of prescription drug coverage for omeprazole is consistent with the Subscriber Contract and prescription drug rider.

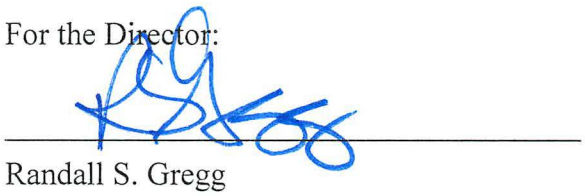
V. Order

HAP's December 23, 2014 final adverse determination is upheld. HAP is not required to provide coverage for omeprazole (Prilosec) to treat Petitioner's condition.

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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director