

**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. 148798-001

HealthPlus Insurance Company  
Respondent

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Issued and entered  
this ~~4<sup>th</sup>~~ day of August 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On July 14, 2015, ██████████, authorized representative of her husband ██████████ (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 a group plan underwritten by HealthPlus Insurance Company (HealthPlus). The benefits are defined in the HealthPlus *Certificate of Coverage*.

The Director notified HealthPlus of the external review request and asked for the information it used to make its adverse determination. HealthPlus furnished its response on July 15, 2015. After a preliminary review of the material received, the Director accepted the request on July 21, 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 was diagnosed with liver cancer. His oncologist referred him to the ██████████ Clinic for treatment where, on December 17, 2014, he had a PET scan. The charge for the PET scan was \$6,254.35. HealthPlus denied coverage, ruling that the Petitioner had not obtained prior authorization for the service.

The Petitioner appealed the denial through the HealthPlus's internal grievance process. At the conclusion of that process, HealthPlus issued a final adverse determination on June 20, 2015, affirming its denial. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did HealthPlus correctly deny coverage for the Petitioner's PET scan?

### IV. ANALYSIS

#### Respondent's Position

In its June 10, 2015 final adverse determination, HealthPlus wrote:

This decision is based on the terms and conditions of your Certificate of Coverage and your Schedule of Benefits. The pertinent language in your Schedule of Benefits states that:

You are responsible for obtaining required Prior Authorizations from HealthPlus or its designee for specific Covered Services. The back of your ID card lists phone numbers to call for Prior Authorization. If you do not obtain the required Prior Authorization, you may be responsible for the entire cost of the service.

and:

Imaging Services such as MRI, CAT scan, CT, CTA, MRA and PET scans, nuclear cardiac studies and virtual colonoscopy require Prior Authorization from HPI or its designee...without proper Prior Authorization, imaging services are not covered and Member is responsible for total cost.

The pertinent language under the your Certificate of Coverage can be found in SECTION VII – PRIOR AUTHORIZATION FOR BENEFITS, 7.1 OBTAINING PRIOR AUTHORIZATION, item A. Medical Prior Authorization:

Members may be required to obtain Prior Authorization from HPI or its designee for certain services and/or supplies. If required, Prior Authorization must be obtained from HPI (or its designee) at least five (5) days before a Member receives the service requiring such Prior Authorization. *If a Member does not obtain Prior Authorization, the Member will be responsible for the entire cost of the service if HPI or its designee determines that the service was not Medically Necessary. If HPI determines that the service for which Prior Authorization was required but not obtained was Medically Necessary, the Member will be charged a penalty of the lesser of the cost of the service or the amount specified in the Member's Schedule of Benefits.*

However, for certain services, if the Member has not obtained Prior Authorization if required, there will be no HPI Coverage for the service even if the service is Medically Necessary (see Section 8.4C). Neither the costs a Member pays for non-Medically Necessary Services obtained without required Prior Authorization nor the "lesser of the cost" nor the penalty amount for obtaining Medically Necessary Services without required Prior Authorization will be applied to the Member's Deductible or Out of Pocket Maximum, as described in the Schedule of Benefits.

As stated above, services under Section 8.4C are not covered even if the service is considered medically necessary. Section 8.4- OUTPATIENT LABORATORY AND DIAGNOSTIC SERVICES, item C of your Certificate of Coverage states:

Imaging services, including but not limited to: MRI, CAT scan, CT, CTA, MRA, *PET scan* and nuclear cardiac studies and virtual studies are covered *only if Member, or his/her Physician acting on Member's behalf obtains Prior Authorization from HPI or its designee.*

If a Member fails to obtain Prior Authorization from HPI or its designee (including if the Member's treating Physician refuses to comply with HPI's Prior Authorization requirements even after HPI or its designee has contacted the Physician), then imaging services are not covered.

Based on the above language, a prior authorization was needed to have the PET scan performed, but was not obtained. Not only did the member, but also their physician, did not obtain a prior authorization before the PET scan. Therefore, Health Plus will not cover the PET scan as a covered service under your Certificate of Coverage.

#### Petitioner's Position

In a letter dated July 9, 2015, submitted with the request for external review form, the Petitioner's wife wrote:

I'm appealing a HealthPlus denied charge for a PET scan at the [REDACTED] on 12/17/14. Attached are my notes, letters, bills and information that I have related to this. The amount is \$6,254.35.

HealthPlus has denied paying for this as we did not have a prior authorization. I understand that we need to have that and I thought we did. My husband had a CT scan in [REDACTED] and the doctor saw a dramatic response from the chemo. He suggested we go back to the [REDACTED], [REDACTED] for their opinion. The appointments were made very quickly and I remembered the office assistant [REDACTED] calling HealthPlus. When the bill came, I found out that she called for the CT scan, but not the PET scan. I had confused it. She thought the [REDACTED] would call for the PET scan authorization. When I explained that I had a bill, she said just have them get a retro authorization and that should take care of it. She even called [REDACTED] billing and explained to them what to do. When the [REDACTED] tried to get the retro authorization, they were told no. I have included letters from [REDACTED], the doctor in [REDACTED] and [REDACTED] the doctor at the [REDACTED], indicating why the PET scan was necessary.

My notes show the steps I took to get this resolved, starting with a call to HealthPlus on February 18th to their denial letter dated June 10th. I didn't get a chance to speak at the grievance appeal meeting with HealthPlus because they said they couldn't reach me by phone. Both my husband and I were available at the phone number I gave them (my cell phone) and our home number listed in their files. They say the phone just rang, both

numbers. I have voicemail on both phones. Also, my caller id did not show them as having called.

A human mistake was made in not having the prior authorization. Dealing with the news of my husband's condition is very overwhelming and on top of it dealing with all of this medical information, billing, authorizations, etc., I just got things confused. Mistakes should be forgiven and a retro authorization provided.

### Director's Review

In order to receive coverage for a PET scan, a HealthPlus member must obtain prior authorization for that service. The Petitioner, by oversight, failed to obtain the necessary authorization. In the absence of prior authorization, HealthPlus may decline to provide coverage for the PET scan.

Had the prior authorization been requested, there is no indication that coverage would have been denied. The PET scan is a benefit under the certificate of coverage and HealthPlus has made no assertion that the test was not medically necessary. In this sense, the denial of coverage seems an unnecessarily punitive decision by HealthPlus, given the significant expense involved and in light of the fact that its subscribers are seeking treatment for a serious, perhaps fatal, medical disorder. Nevertheless, the Director cannot require HealthPlus to provide coverage since its denial is within the authority of HealthPlus under the terms of the certificate.

### **V. ORDER**

The Director upholds the HealthPlus June 10, 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 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.

Patrick M. McPharlin  
Director

For the Director:



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Randall S. Gregg  
Special Deputy Director