

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. 145839-001

Humana Insurance Company
Respondent

Issued and entered
this 2ND day of April 2015
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) receives health care benefits under an individual health policy that is underwritten by Humana Insurance Company. On January 14, 2015, she 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.* In her request for review she challenged a Humana denial of coverage for varicose vein surgery. The request was incomplete and was not accepted for review.

The Petitioner resubmitted her request with additional information on March 3, 2015. The Director notified Humana of the external review request and asked for the information used to make its final adverse determination. Humana furnished the information on March 9, 2015. After a preliminary review of the material submitted, the Director accepted the request on March 10, 2015.

Because medical issues were involved, the case was assigned to an independent review organization which provided its analysis and recommendation to the Director on March 30, 2015.

II. FACTUAL BACKGROUND

The Petitioner is █ years old and has a history of varicose veins. Her physician recommended a microphlebectomy, the surgical removal of small to medium varicose veins at the surface of the skin. She requested coverage from Humana. Humana denied the request, ruling the procedure was not medically necessary.

The Petitioner appealed the denial through Humana's internal grievance process. At the conclusion of that process, Humana issued a final adverse determination on February 12, 2015, affirming its denial of coverage. The Petitioner now seeks a review of that determination from the Director.

III. ISSUE

Did Humana correctly deny coverage for the microphlebectomy to treat the Petitioner's varicose veins?

IV. ANALYSIS

Petitioner's Argument

In a letter to Humana dated October 1, 2014, the Petitioner's physician wrote:

This letter is written on behalf of [Petitioner], who was seen in my office for consultation on October 1, 2014 to evaluate her venous disease of the bilateral lower extremities. For your review, I am submitting copies of my office notes.

Conservative treatments that have been attempted in the past include: Walking, resting, and elevation. The leg bulging, swelling, aching, and burning still persists.

In consultation, I discussed the issue of varicose vein disease as well as the many available treatments. Due to the severity of the disease, I propose to treat this patient by Microphlebectomy of the Varicose Veins. The following are the codes that will be used when submitting this claim:

Diagnosis

- 459.39 Venous Hypertension
- 454.8 Varicose Veins with Symptoms Procedure
- 37765 Stab phlebectomy of varicose veins, one extremity; 1 0-20 stab incision.
- 37799 Stab phlebectomy of varicose veins, one extremity; less than 10 stab incisions.

It is my belief that microphlebectomy of the vein will provide my patient with the greatest result, allowing the constant pain and tenderness to cease.

The microphlebectomy procedure will be performed on an outpatient basis and require approximately one hour. This procedure has not yet been scheduled; I am waiting for preauthorization from your medical review board to confirm medical necessity. In my professional opinion, there is no doubt that this patient is suffering from varicose vein disease. Hopefully based on the information that has been presented in my letter, you will find the same situation to be true. Your promptness in this matter is appreciated due to the fact that the disease process is worsening.

Respondent's Argument

In its final adverse determination, Humana stated that coverage was denied because the requested procedure was not medically necessary. This conclusion was based on an evaluation commissioned by Humana and performed by a physician specializing in general and vascular surgery. The physician found that there was no documentation of certain prerequisites Humana required for the surgery to be approved. (The prerequisites are found in a Humana paper titled, "Varicose Vein Treatments.") The reviewing physician wrote:

Documented symptoms of venous insufficiency of the lower extremities such as itching, burning or edema that interferes with activities of daily living and represents a functional impairment or pain that has failed to respond to a trial of nonprescription or prescription analgesics. Documentation of a trial of at least three months of conservative, non-operative treatment including, but not limited to, compliance with compressive stockings providing 20 to 30 mm Hg pressure. These requirements are not met in the October 2, 2014 physician report. This is the only report of the current clinical presentation that is offered for review, and it includes no documentation of hemorrhage, venous stasis ulceration. There are no documented symptoms of venous insufficiency of the lower extremities such as itching, burning, or edema that interferes with activities of daily living and represents a functional impairment or pain that has failed to respond to a trial of nonprescription or prescription analgesics. There is no documentation of a trial of at least three months of conservative, non-operative treatment including, but not limited to, compliance with compressive stockings providing 20 to 30 mm Hg pressure.

Director's Review

The Petitioner's policy excludes benefits for medical treatment that is not medically necessary. "Medically necessary" is defined on page 93 of the policy as:

... health care services that a *health care practitioner* exercising prudent clinical judgment would provide to his or her patient for the purpose of preventing, evaluating, diagnosing or treating a *sickness* or *bodily injury* or its symptoms. Such health care service must be:

- In accordance with nationally recognized standards of medical practice and generally accepted as safe, widely used and effective for the proposed use;
- Clinically appropriate in terms of type, frequency, intensity, toxicity, extent, setting, and duration;
- Not primarily for the convenience of the patient or *health care practitioner*;
- Clearly substantiated by the medical records and documentation concerning the patient's condition;
- Performed in the most cost effective setting required by the patient's condition; and
- Supported by the preponderance of nationally recognized peer review medical literature, if any, published in the English language as of the date of *service*.

Humana's paper, "Varicose Vein Treatments" describes approved treatments and the criteria used to determine coverage. The policy includes the following provision:

Humana members may be eligible under the Plan for varicose vein treatments when the following general criteria are met:

- Duplex ultrasound or Doppler imaging study report shows clinically significant reflux (incompetence), indicated by greater than or equal to 500 millesecconds (ms) (ie, greater than or equal to 0.5 seconds) for the great saphenous vein or the small saphenous vein or perforator veins in the extremity to be treated; AND at least one of the following:
 - Hemorrhage from venous varicosity; OR
 - Venous stasis ulceration; OR
 - Medical complications of venous insufficiency, such as:
 - Documented symptoms of venous insufficiency of the lower extremities such as itching, burning or edema that interferes with activities of daily living and represents a functional impairment or pain that has failed to respond to a trial of nonprescription or prescription analgesics; AND
 - Documentation of at least a trial of three months of conservative, non-operative treatment including, but not limited to, compliance with compressive stockings providing 20 to 30 mm Hg pressure.

In order to evaluate Humana's conclusion that the requested procedure is not medically necessary, the Director presented the issue to an independent review organization (IRO) for analysis, as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a physician in active practice for more than 10 years who is certified by the American Board of Surgery with a subspecialty in vascular surgery. The IRO reviewer's report includes the following analysis and recommendation:

The member has received a number of varicose vein treatments. The member has a history of a closed left greater saphenous vein by Duplex and a more recent history of right lesser saphenous vein ablation, left lesser saphenous vein ablation and microphlebectomies of veins on the left. The member presented about 4 months after her most recent treatment with the complaint of a firm area on her calf and reported that this area increased and decreased in size and had been present for several months....[T]here was no documentation in the case file as to which side the area is on and no recent duplex ultrasound to rule out deep vein thrombosis and confirm that the area of concern is indeed vascular. The records provided for review do not document a planned attempt at conservative treatment to see if there was any improvement prior to planning surgery. It does not appear that the member was recently given a prescription for compression stockings and instructed in their use or that she used them for a time to see if they were effective....[T]here is no documentation that the member is experiencing discomfort that affects her daily activities....[N]o pulse examinations or assessment of arterial perfusion

results were submitted for review, which would be required to be able to help to attribute the member's leg symptoms to varicose veins...[T]he documentation submitted does not support the medical necessity of the proposed procedure.

Pursuant to the information set forth above and available documentation...a microphlebectomy is not medically necessary for treatment of the member's condition.

The Director is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO 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. The Director can discern no reason why the IRO's recommendation should be rejected in the present case. The Director finds that the requested procedure is not medically necessary and is therefore excluded from coverage under the Petitioner's policy.

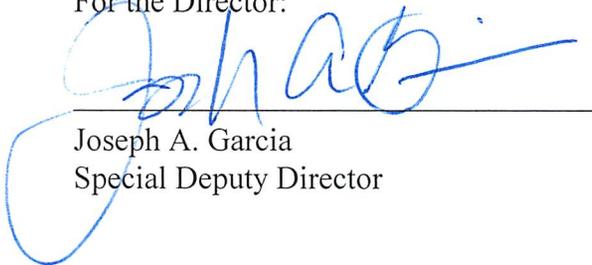
V. ORDER

Humana Insurance Company's February 12, 2015, final adverse determination is upheld. Humana is not required to provide coverage for the Petitioner's microphlebectomy varicose vein surgery.

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 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:



Joseph A. Garcia
Special Deputy Director