

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. 150907-001

McLaren Health Plan,

Respondent.

Issued and entered
this 7th day of December 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage by McLaren Health Plan (McLaren) for prenatal and home birth services provided by a midwife.

On November 16, 2015, she 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 Petitioner receives group health care benefits through McLaren, a health maintenance organization. The Director immediately notified McLaren of the external review request and asked for the information used to make its final adverse determination. McLaren provided its response on November 18, 2015. The Director accepted the Petitioner's request on November 23, 2015.

The issue in this case can be decided by an analysis of the contract that defines the Petitioner's health care benefits. The Director reviews contractual issues under MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are described in McLaren's *POS Certificate of Coverage* (the certificate).

The certificate provides coverage at two benefit levels, Option A and Option B. Option A benefits, coordinated by a primary care physician who issues referrals for specialty care, are provided with the lowest out-of-pocket expense for the Petitioner. Option B allows the Petitioner to use out-of-network providers but not all services in the certificate are covered under Option B and Option B benefits may result in significant out-of-pocket expenses.

From March 16 through September 13, 2014, the Petitioner received prenatal and home birth services from a midwife that is not in McLaren's network. The Petitioner paid for the services and then sought reimbursement from McLaren as an Option B benefit. McLaren denied the Petitioner's claim.

The Petitioner appealed McLaren's decision through its internal grievance process. At the conclusion of that process, McLaren issued a final adverse determination dated September 28, 2015, affirming its decision. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did McLaren properly deny coverage for the Petitioner's midwife services?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, McLaren explained its decision to deny coverage for the prenatal and home birth services:

The McLaren Health Plan Appeals Committee has carefully reviewed the appeal request . . . requesting direct member reimbursement for prenatal and home birth services provided by [a midwife]. . . .

* * *

After reviewing the documentation provided, McLaren Health Plan is unable to approve this request. The Certificate of Coverage, Section 9.13, Elective Procedures, indicates "The following elective procedures are not covered: Services provided by a lay-midwife and home births." McLaren Health Plan contacted [the midwife] in an attempt to obtain licensing information but [she] has failed to return our calls. Our independent research and her failure to respond lead us to conclude that she is a "lay-midwife," and therefore services provided are excluded under the terms of your coverage.

Petitioner's Argument

The Petitioner summarized her grievance against McLaren on the external review form, she wrote:

8/29/14 - [REDACTED] at McLaren stated the services provided from any midwife and our home birth was a covered service and we would be reimbursed after the birth of our child. Per the statement of coverage under "option B" of section 8.053 as an out-of-network provider.

9/28/15 - McLaren ruled through their internal review board that our claim was to be denied to the "procedure" not being covered.

Director's Review

The certificate (p. 45), in section 9.13, "Elective Procedures," has this exclusion:

The following elective procedures are not covered:

* * *

- Services provided by a lay-midwife and home births.

McLaren said in a November 18, 2015, letter that was submitted for this external review:

In this case, the prenatal services were provided by a lay-midwife, and were therefore not covered; the birth was a home birth and delivery was by a lay-midwife, therefore the services related to the home birth were not covered.

There is nothing in the record that would permit the Director to conclude that the midwife used by the Petitioner was not a lay midwife.¹ Therefore, the Director finds that McLaren correctly denied coverage for the midwifery services the Petitioner received.

The Petitioner alleges that she was told that "any" services from a midwife would be covered as a benefit under Option B. However, even if that is accurate, the Director, in a review under the Patient's Right to Independent Review Act, does not have the authority to alter the terms of coverage based on misinformation provided by a health plan's employee. The Petitioner would have to seek a remedy for any alleged misrepresentation in another forum.

The Director concludes that McLaren correctly denied the Petitioner's claim under the terms and conditions of the certificate.

¹ A lay midwife is different than a "certified nurse midwife," an individual licensed as a registered professional nurse under the Public Health Code who has been issued a specialty certification in the practice of nurse midwifery.

V. ORDER

The Director upholds McLaren's September 28, 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 sixty 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, Health Care Appeals Section, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:

A handwritten signature in black ink, appearing to read 'RSG', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director