

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. 150946-001

McLaren Health Plan, Inc.
Respondent

Issued and entered
this 17th day of December 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 18, 2015, ██████████, authorized representative of ██████████ (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 (PRIRA), MCL 550.1901 *et seq.*

The Petitioner receives health care benefits through the Medicaid program as a member of McLaren Health Plan, Inc., (McLaren) a health maintenance organization that serves Medicaid recipients. The benefits are defined in the *McLaren Medicaid Certificate of Coverage*.

The Director notified McLaren of the external review request and asked for the information it used to make its final adverse determination. The Director received McLaren's response on November 20, 2015. After a preliminary review of the material submitted, the Director accepted the request on November 24, 2015.

The issue in this external review can be decided by a contractual analysis. The Director reviews contractual issues pursuant to MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

The Petitioner has cystic fibrosis. His physician prescribed Orkambi.¹ McLaren denied coverage. The Petitioner appealed the denial through McLaren's internal grievance process. At the conclusion of that process McLaren affirmed its denial in a final adverse determination issued August 7, 2015. (The Petitioner's request for external review was filed more than 60 days after McLaren's final adverse determination was issued. While this would normally be an untimely filing, the Director determined that McLaren failed to provide the Petitioner with the information required by section 7 of the PRIRA, MCL 550.1907, regarding filing rights and obligations. For that reason, the Petitioner's request for review is deemed to have been timely filed.)

II. ISSUE

Did McLaren correctly deny coverage for Orkambi to treat the Petitioner's cystic fibrosis?

IV. ANALYSIS

In his request for an external review, Petitioner's authorized representative wrote:

The FDA recently approve Orkambi for individuals with cystic fibrosis Delta F508 homozygous mutations. Other patients with this genetic defect have had access to Orkambi since July 2015. [Petitioner] has been denied this medication due to his McLaren Health Medicaid insurance plan not being an approved payer through the state of Michigan. Orkambi has been proven to reduce the number of exacerbations in those with the Delta F508 homozygous mutations (see attached article). [Petitioner] has been hospitalized twice this year requiring IV antibiotics. These admissions could have been avoided if [Petitioner] had access to Orkambi. [Petitioner] has also had a marked decrease in lung function, which correlates to poor quality of life. Please make McLaren Health Medicaid Medicaid an approved payor for Orkambi in the State of Michigan in order for [Petitioner] to be allowed this medication.

In its final adverse determination, McLaren stated:

According to the Medical Service Administration (MSA), a division of the Michigan Department of Community Health (MDCH), this medication is not a covered benefit under Michigan Medicaid.

The McLaren certificate of coverage, in "Section 6. Schedule of Covered Services," states that a prescription drug "must be on our Formulary or Preauthorized."

Section 3571 of the Michigan Insurance Code, MCL 500.3571, provides:

1. Orkambi is two drugs, lumacaftor and ivacaftor, used in combination.

A health maintenance organization that participates in a state or federal health program...is not required to offer benefits or services that exceed the requirements of the state or federal health program.

Orkambi is not on the list of drugs that must be covered by health maintenance organizations that administer the Michigan Medicaid program. Therefore, McLaren is not required to provide coverage for Orkambi.

V. ORDER

The Director upholds McLaren's August 7, 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 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:



Randall S. Gregg
Special Deputy Director