

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. 148583-001

Molina Healthcare of Michigan  
Respondent

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Issued and entered  
this 24<sup>th</sup> day of July 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 30, 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, MCL 550.1901 *et seq.*

The Petitioner receives health care benefits from Molina Healthcare of Michigan, a health maintenance organization for Medicaid-eligible individuals.

The Director notified Molina of the external review request and asked for the information it used to make its final adverse determination. Molina provided its response on July 2, 2015. After a preliminary review of the material submitted, the Director accepted the request on July 8, 2015. Molina submitted additional information on July 17, 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 chronic Hepatitis C Genotype 1a. Her physician asked Molina to cover the prescription drug Harvoni to treat her condition. Molina denied the request.

The Petitioner appealed the denial through Molina's internal grievance process. At the conclusion of that process, Molina affirmed its denial in a final adverse determination dated May

15, 2015. The Petitioner now seeks a review of Molina's final adverse determination from the Director.

### III. ISSUE

Did Molina correctly deny coverage for the prescription drug Harvoni?

### IV. ANALYSIS

#### Petitioner's Argument

In a letter submitted with the external review request, Petitioner's physician explained the medical necessity of Harvoni:

[Petitioner] is a patient in our clinic who has [had two] liver transplants. She now has stage 2 fibrosis in her second transplanted liver, which will quickly progress to cirrhosis due to immunosuppression if left untreated. Harvoni...is her only chance of stopping further scarring which will lead to death. She cannot tolerate any other treatment for Hepatitis C. She is not eligible for a 3rd liver transplant.

#### Respondent's Argument

In its final adverse determination, Molina provided the following reason for denying coverage:

Molina Healthcare has reviewed the request for Harvoni and determined that it is not a covered benefit. As an alternative, please consider prescribing medications that are available on the Molina Healthcare Formulary.

Your request was denied based on the **Molina Healthcare's Member Handbook, Certificate of Coverage, Appendix C.30 Excluded Services & Limitations – Prescription Drugs.**

#### Director's Review

As a Medicaid HMO, Molina's prescription drug coverage is based on the Michigan Department of Community Health Preferred Drug List. The Preferred Drug List identifies several drugs approved for the treatment of Hepatitis C. Harvoni is not among the approved drugs.

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

The certificate, on pages 15 and 26, references this exemption:

**8.2 Limitations**

8.2.1 Covered Services are subject to the limitations and restrictions described in Medicaid Program policy manuals and publications and this Certificate.

[page 15]

**Appendix C – Excluded Services & Limitations**

Any services, equipment or supplies excluded or limited under the Medicaid Contract are excluded or limited under the Member Agreement, even when recommended by a Primary Care Provider or Participating Provider and/or written on a Plan referral form.

[page 26]

The Director finds that Molina’s denial of coverage for Harvoni is consistent with the terms of the Petitioner’s health plan.

**V. ORDER**

The Director upholds Molina’s May 15, 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:



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Randall S. Gregg  
Special Deputy Director