

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of Insurance and Financial Services**

**In the matter of:**

████████████████████

**Petitioners**

**v**

**File No. 150536-001**

**Nippon Life Insurance Company of America**  
**Respondent**

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**Issued and entered**  
**this 17<sup>th</sup> day of November 2015**  
**by Joseph A. Garcia**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On October 26, 2015, ██████████, on behalf of herself and her son, ██████████, (Petitioners) 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 Petitioners receive health care benefits through a group plan underwritten by Nippon Life Insurance Company of America (Nippon). The benefits are defined in Nippon's *Group Plan Booklet Certificate* issued to ██████████ with an effective date of December 1, 2014. The Director notified Nippon of the external review request and asked for the information used to make its final adverse determination. Nippon provided its initial response on October 29, 2015. The Director accepted the case for review on November 2, 2015. Nippon submitted additional information on November 13, 2015.

The issue in this external review can be decided by a contractual analysis. 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**

This review concerns the amount paid to ██████████, a physician group whose doctors treated the Petitioners on five occasions between July 30, 2014 and January 6, 2015. These physicians were not part of Nippon's preferred provider organization (PPO).

The Petitioners appealed Nippon's payment decision through its internal grievance process. At the conclusion of that process, Nippon issued a final adverse determination on September 25, 2015, affirming its decision. The Petitioners now seek a review of that final adverse determination from the Director.

### III. ISSUE

Did Nippon correctly process the claims for the Petitioners' emergency room visits?

### IV. ANALYSIS

#### Petitioners' Position

In the external review request, Petitioner wrote:

When I take my son or myself to our local ER (Emergency Room) it is in-network but I can't select the doctors I want to see. Those doctors were out of network therefore we were charged an out of network price.

#### Nippon's Position

In its final adverse determination Nippon wrote:

Our records indicate that [REDACTED] is not contracted with your Preferred Provider Organization (PPO), Aetna Signature Administrators. This claim was processed at the in-network deductible and coinsurance level because it met the Emergency Services provision of your plan....

Out-of-network charges are subject to the Prevailing Charges provision of your plan. A charge is considered over the Prevailing Charge if it exceeds 70% of all other reported charges for the same cost area. Given the emergency nature of the services you received, we have allowed 80% of all other reported charges for this cost area. Nippon Life Benefits utilizes data from FAIR Health, Inc. to determine our Prevailing Charge allowances. FAIR Health, Inc. is a national, independent, not-for-profit corporation, established in October 2009. Therefore, the services rendered on 07/30/2014, 08/02/2014, and 01/03/2015 exceeded the prevailing charges and no additional benefits are due at this time.

Additionally, the services rendered on 11/29/2014 and 01/06/2015 were processed at the incorrect Prevailing Charges and these claims have been overturned. The claims have been sent for adjustments and you will receive a corrected explanation of benefits within the next 7-10 business days.

This decision was based on your policy/certificate provision which states:

\* \* \*

Covered Charges will be the actual cost charged to the Insured Person but only to the extent that the actual cost charged does not exceed Prevailing Charges.

Director's Review

Nippon's *Group Plan Booklet Certificate*, under Description of Benefits Medical Expense Insurance: Emergency Service (page 45), provides:

If an Insured Person requires Emergency Services, either within the PPO Service Area or outside the PPO Service Area, benefits for such treatment received for these Emergency Services will be paid at the PPO level. Treatment or Service from a Non-PPO Provider for conditions that are not Emergency Services will be paid at the Non-PPO.

Nippon has paid the claims in question in this case at 80 percent (the PPO level) due to the emergency nature of the services. This is the payment level required under the Petitioners' benefit plan.

Because Nippon reprocessed the November 29, 2014 and January 6, 2015 those claims are not addressed in this order. If the Petitioners dispute those claims, they may a separate appeal beginning with Nippon's internal grievance process.

**V. ORDER**

The Director upholds Nippon's final adverse determination of September 25, 2015.

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:



Joseph A. Garcia  
Special Deputy Director