

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. 150894-001

United Healthcare Insurance Company  
Respondent

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Issued and entered  
this 14<sup>th</sup> day of December 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On November 13, 2015, ██████████ (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.* After a preliminary review of the material submitted, the Director accepted the request on November 20, 2015.

The Petitioner receives health benefits through a plan underwritten by United Healthcare Insurance Company (United). The benefits are described in United's *Choice Plus* certificate of coverage.

The Director notified United of the external review request and asked for the information it used to make its final adverse determination. United provided its response on November 30, 2015. To address the medical issue in the case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation on December 3, 2015.

**II. FACTUAL BACKGROUND**

The Petitioner is █ years old and has diabetes, hypertension, dyslipidemia, hypothyroidism and osteoarthritis. Her doctor recommended a sleep study to be performed in a medical facility. United denied coverage.

The Petitioner appealed the denial through United's internal grievance process. At the conclusion of that process, United affirmed its decision in a final adverse determination dated October 3, 2015. The Petitioner now seeks a review of that adverse determination from the Director.

### III. ISSUE

Did United correctly deny coverage for a facility-based sleep study for the Petitioner?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, United cited Section 2 of the *Choice Plus* certificate of coverage which describes coverage exclusions. Among the exclusions listed are:

Health services and supplies that do not meet the definition of a Covered Health Service-see the definition in Section 9: Defined Terms. Covered Health Services are those health services, including services, supplies, or Pharmaceutical Products, which we determine to be...Medically Necessary

In the final adverse determination, United also wrote:

██████████, MD, specializing in Internal Medicine and Pulmonary Disease reviewed your appeal. This decision was made based on Attended Polysomnography for Evaluation of Sleep Disorders 2015T03304T. ██████████ determination is as follows:

You asked for coverage of a facility-based sleep study. We have reviewed your doctor's note and your health care plan sleep study policy. You have an obstructive sleep disorder. Your doctor wants to evaluate a continuous positive airway pressure (CPAP) machine to treat your illness. We do not see that you have health problems that support the need for a facility sleep test rather than a home sleep test. Per health plan policy, your condition does not meet medical necessity for a facility-based sleep study. Therefore, the requested service is not a covered benefit. The denial is upheld.

#### Petitioner's Argument

In the request for external review, the Petitioner wrote:

I would like to have the appropriate in-clinic testing to accurately determine if (and at what level) I have sleep apnea. To determine if there is another reason I stop breathing an average of 30 times an hour and my oxygen levels drop to 68. Is it a sinus issue, a tumor, allergies, etc? To test the appropriate level of oxygen

needed and CPAP mask. This should be classified as preventive because sleep apnea will cause heart disease.

### Director's Review

The medical necessity of a facility-based sleep study was presented 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 who is certified by the American Board of Internal Medicine with subspecialty certification in pulmonary medicine, critical care medicine, and sleep medicine. The reviewer is an associate professor of medicine at a university based college of medicine and is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

Clinical trials showed that home sleep testing is an adequate alternative to an in-laboratory sleep study in patients without pulmonary, cardiovascular or sleep comorbidities and with high pretest probability of sleep apnea. This data provided the rationale for the American Academy of Sleep Medicine (AASM) clinical guidelines. Although this enrollee is severely obese, her BMI is less than 50 and she has no evidence of obesity hypoventilation syndrome. This enrollee's awake SaO<sub>2</sub> is 99%, which excludes significant daytime hypercapnia. Although the enrollee has diabetes and hypertension, there is no evidence of heart failure in the documentation submitted for review. [Citations omitted.]

A facility-based polysomnogram is indicated in the following categories of patients: chronic pulmonary disease, neurological disease, heart failure, obesity hypoventilation syndrome, and concomitant sleep disorder other than sleep apnea. The enrollee does not have any of these comorbidities per the submitted clinical information. Her home sleep test (HST) was adequate.

The enrollee has moderate obstructive sleep apnea (OSA) that may be treated with automatic continuous airways pressure (CPAP). The pressure may be fixed later based on auto-CPAP data. Therefore, for the reasons noted above, the facility-based sleep study is not medically necessary for this enrollee's condition.

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the IRO's recommendation 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 that analysis should be rejected in the present case. Therefore, the Director adopts the IRO analysis and finds that a facility-based sleep study is not medically necessary to treat the Petitioner.

**V. ORDER**

The Director upholds United's October 3, 2015 final adverse determination. United is not required to provide coverage for a facility-based sleep study for the Petitioner.

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 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:

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

Randall S. Gregg  
Special Deputy Director