

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. 150767-001

United Concordia Dental Plans of the Midwest, Inc.  
Respondent

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Issued and entered  
this 2nd day of December 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On November 6, 2015, ██████████, authorized representative of his adult ██████████, ██████████ (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 dental benefits as a dependent under her father's group dental plan underwritten by United Concordia Dental Plans of the Midwest, Inc., (United Concordia). The Director accepted the request for external review on November 16, 2015.

The issue in this external review can be decided by an analysis of United Concordia's *ConcordiaPLUS* certificate of coverage. 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, who is █ years old, has a history of autism and is non-verbal. She required dental services. However, because of her disability it was not possible for her to receive dental care without first being anesthetized. United Concordia told the Petitioner's father that they had no network providers who could perform the required procedures.

Petitioner's father located a dentist, Dr. [REDACTED], who could provide the necessary care. Dr. [REDACTED] is not a member of United Concordia's provider network.

On July 22, 2015, the Petitioner received the required dental care from Dr. [REDACTED]. (In a February 24, 2015 letter to Dr. [REDACTED], United Concordia acknowledged that scaling and root planing under general anesthesia was necessary.) The amount charged for the services totaled \$3,865.00. Petitioner's father paid the full amount to Dr. [REDACTED] and requested reimbursement from United Concordia. United Concordia denied the request for reimbursement.

Petitioner's father appealed the denial through United Concordia's internal grievance process. United Concordia affirmed its denial in a letter dated July 6, 2015.<sup>1</sup>

### III. ISSUE

Did United Concordia properly deny coverage for the Petitioner's July 22, 2015 out of network dental services?

### IV. ANALYSIS

#### Petitioner's Argument

In an April 6, 2015 letter to United Concordia the Petitioner's father wrote:

As you already know... [REDACTED] is a patient with autism. At a recent dentist visit, it was concluded that she requires a scaling and root planning procedure (D4341). This service is fully covered by our current dental benefits plan through United Concordia. However, after months (since November 2014) of correspondences with United Concordia and Midwestern Dental (United Concordia's dental provider), you denied benefits coverage citing exclusions #24 and #27 as stated in your February 24, 2015 letter.

I believe that your denial of benefits, based on the above exclusions, is totally unfounded. [REDACTED] condition...has not, in past or at [REDACTED] current dentist presented a condition whereby any treatment was not possible. You simply chose to exclude a member from receiving their entitled benefits based strictly on her certified status as a handicapped person. In short, you are excluding the person and not the dental procedure.

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1. The letter does not conform to the requirements of the Patient's Right to Independent Review Act for a final adverse determination in that it does not describe the Petitioner's right to an external review. (See MCL 550.1907.) In addition, the letter only addresses two of the dental services the Petitioner received (periodontal care and anesthesia) despite the fact that the Petitioner's appeal also involved the other dental services she received (oral surgery and medication). In this order, the Director will address all denied services.

Again, your denial letter references your refusal to perform the dental procedure, at [REDACTED], citing that they are not equipped to handle this specific case but you also fail to provide, an alternate solution where we can obtain this covered service with full benefits coverage by United Concordia.

### Respondent's Argument

In its July 6, 2015 letter to the Petitioner's father, United Concordia explained its refusal of coverage:

You are covered as a subscriber under a DHMO group dental plan through Chrysler.... This is a managed care dental plan. The contractual benefits for the DHMO plan are limited and specific and for which no exceptions may be made.

As we discussed, your current DHMO provider is unable to provide the scaling and root planing with anesthesia for your dependent. Additionally, there are no DHMO providers in your area able to provide these services.

As a result, your employer has offered an immediate transfer to their PPO group dental plan, without waiting for the annual open enrollment period, because they feel that this is the appropriate coverage for your family. This would enable you to seek the needed services for your dependent from any provider, either in-network or out of network.

United Concordia did not issue a claim denial to the Petitioner or her family after this letter was issued (i.e., after the services had been performed and the Petitioner's father had requested reimbursement).

In a letter to DIFS dated October 23, 2015, United Concordia wrote:

There is no claim on file concerning Mr. [REDACTED] request for authorization to have non-surgical periodontal scaling and root planing and general anesthesia provided for his handicapped [REDACTED] by an out-of-network provider, which [REDACTED] Primary Dental Office (PDO) cannot provide. We previously stated that the group needs to correct enrollment for [Petitioner] if she is a handicapped dependent.

We are required to process claims in accordance with the dental contract. This DHMO contract states on the first page of the Schedule of Benefits, which we previously provided, that no treatment is covered by an out-of-network provider. Therefore, we are unable to authorize treatment by an out-of-network provider.

That first page of the Schedule of Benefits also states that all services must be provided by or referred by the PDO. This DHMO plan requires the PDO to provide all treatment and only refer specialty procedures to a participating specialist. Scaling and root planing is not listed under the DHMO policy as a referable specialty procedure unless the patient is diagnosed with Case Type III for moderate periodontitis or Case Type IV for advanced periodontitis. The PDO states that they are unable to determine the Case Type because the patient will

not open her mouth for examination. Therefore, we are unable to authorize referral to a participating periodontal specialist.

Since this scaling and root planing procedure is not referable, the PDO is required to, and can, provide this procedure for a co-operative patient who does not require general anesthesia due to their health condition. However, this contract states in the exclusions that we previously provided in Paragraph 24 that coverage is excluded for treatment which the dental office cannot provide due to circumstances beyond their control, and in Paragraph 27 that coverage is excluded for a service which cannot be performed because of the patient's health. Therefore, the PDO is not required to provide treatment that they are unable to perform due to the patient's health, which is beyond their control.

Since this DHMO contract does not meet the subscriber's needs, the group administrator offered to change their coverage to another less restrictive plan and the member declined.

### Director's Review

United Concordia Dental Plans of the Midwest, Inc. is authorized to conduct business in Michigan as an alternative financing and delivery system (AFDS) pursuant to section 3573 of the Michigan Insurance Code, MCL 500.3573. An AFDS provides coverage for medical or dental services in a manner similar to a health maintenance organization. As an AFDS, United Concordia must meet the requirements of section 3530 of the Insurance Code, MCL 500.3530, which provides:

- (1) A health maintenance organization shall maintain contracts with those numbers and those types of affiliated providers that are sufficient to assure that covered services are available to its enrollees without unreasonable delay. The commissioner shall determine what is sufficient as provided in this section and as may be established by reference to reasonable criteria used by the health maintenance organization, including, but not limited to, provider-covered person ratios by specialty, primary care provider-covered person ratios, geographic accessibility, waiting times for appointments with participating providers, hours of operation, and the volume of technological and specialty services available to serve the needs of enrollees requiring technologically advanced or specialty care.
- (2) If a health maintenance organization has an insufficient number or type of participating providers to provide a covered benefit, the health maintenance organization shall ensure that the enrollee obtains the covered benefit at no greater cost to the enrollee than if the benefit were obtained from participating providers, or shall make other arrangements acceptable to the commissioner.
- (3) A health maintenance organization shall establish and maintain adequate arrangements to ensure reasonable proximity of participating providers to the business or personal residence of enrollees. In determining whether a health maintenance organization has complied with this provision, the commissioner shall give due consideration to the relative availability of health care providers in the service area.

The documentation furnished for the external review demonstrates the extensive efforts taken by the Petitioner's father to obtain covered services from a network provider and, later, to have coverage approved for services to be obtained from a non-network provider. United Concordia did not provide assistance to the Petitioner's family in locating a dentist able to provide the services which were medically necessary. Under the Insurance Code provision cited above, it was United Concordia's obligation to provide coverage for those services. The exclusions in the certificate of coverage which United Concordia used to justify its coverage denial are not consistent with the requirements of the Insurance Code. Consequently, the Director finds that United Concordia's denial of coverage for the Petitioner's July 22, 2015 dental services was improper.

#### V. ORDER

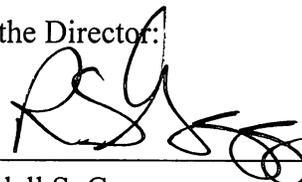
The Director reverses United Concordia's July 6, 2015 final adverse determination. United Concordia shall immediately provide coverage for the Petitioner's dental services provided on July 22, 2015, and shall do so "at no greater cost to the enrollee than if the benefit were obtained from participating providers." Within seven days of providing coverage, United Concordia shall furnish the Director with proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding the implementation to the Department of Insurance and Financial Services, Health Care Appeals Section, at this toll free number: (877) 999-6442.

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