STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner
v **File No. 122696-001**

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this _6th____ day of January 2012
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On July 28, 2011, XXXXX (Petitioner) filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. The Commissioner reviewed the request and accepted it on August 4, 2011.

The Petitioner is enrolled for health care benefits through the Michigan Education Special Services Association (MESSA). The coverage is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on August 15, 2011.

The issue in this external review can be decided by a contractual analysis. The contract here is the MESSA *Choices II Group Insurance for School Employees* (the benefit guide). The Commissioner 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

The Petitioner states she sustained an injury on August 13, 2007, while receiving chiropractic care. The injury left her with neck and jaw pain and temporomandibular joint disorder, and the need for major restorative dental work.

The Petitioner's dentist requested authorization for full mouth reconstruction as a medical benefit under her MESSA coverage. The cost of this care is $15,000.

BCBSM denied the request, ruling the care was not a covered benefit under the benefit guide. The Petitioner appealed the denial through BCBSM's internal grievance process. BCBSM held a managerial-level conference on June 9, 2011, and issued a final adverse determination dated July 1, 2011, upholding its position.

III. ISSUE

Did BCBSM correctly deny prior authorization of the Petitioner's full mouth reconstruction?

IV. ANALYSIS

Petitioner's Argument

The Petitioner states she sustained an accidental injury on August 13, 2007, when her chiropractor gave her a hard blow on the left side of her neck while performing a chiropractic adjustment. It is the Petitioner's contention that the blow caused a misaligned jaw and misaligned bite.

She indicates she has had continuous coverage with MESSA since the accident and that coverage paid for two oral surgeries, maxillary anterior guided orthotics (MAGOs), examinations, adjustments, diagnostic wax-ups, and other care.

The Petitioner wants MESSA and BCBSM to cover the final phase of the dental care she needs to fix her bite alignment problem and return it to its pre-accident condition. According to her dentist, the final phase of her treatment includes:

- a fixed bridge to replace tooth #14
- porcelain crowns for teeth #19, #30, and #31
- direct composite resin veneers (two surface posterior) on teeth #4, 5, 12, 20, 21, 28, and 29
- direct composite resin veneers (incisal angle anterior) on teeth #6, #7, #8, #9, #10, #11, #22, #23, #24, #25, #26, and #27
- coronoplasty on teeth #2, #3, and #18
- post-treatment MAGO
- 1 ½ year monitoring

BCBSM's Argument

The benefit guide, in "Section 8: Coverage for Other Health Care Services" (p. 44) describes coverage for dental services:

> **Dental Services**
>
> Dental treatment by a licensed dentist or dental surgeon required because of an accidental injury to sound natural teeth sustained while covered by this plan and only if coverage has been continuous since the date of the accidental injury. Charges by a dental surgeon for the removal of cysts and tumors of the mouth and jaw, and the extraction of impacted teeth are covered.

"Accidental injury" is defined in Section 1 of the benefit guide (p. 1) as:

> Any physical damage caused by an action, object, or substance outside the body, such as:
>
> - strains, sprains, cuts and bruises
> - allergic reactions caused by an outside force such as bee stings or other insect bites
> - extreme frostbite, sunburn, sunstroke
> - swallowing poisons
> - drug overdosing
> - inhaling smoke, carbon monoxide or fumes

It is BCBSM's position that there is nothing in the treatment plan accompanying the authorization request that relates the services to an accidental injury. BCBSM's dental consultant reviewed the records and noted that the Petitioner was seen in 2009 to correct a "developmental dental facial deformity." According to BCBSM, the dental notes also indicate the diagnosis was the result of a problem that had been long term and not the result of a traumatic injury. The surgeon also listed the preoperative diagnosis of "maxillary posterior hyperplasia, apertognathia," which the BCBSM consultant concluded was not just misalignment but something that would be congenital or had developed over a long period of time.

BCBSM states that there is nothing in the treatment plan related to the chiropractic injury the Petitioner reported. BCBSM argues that the Petitioner's dental care is not the result of an accidental injury and is therefore not a covered benefit under the benefit guide.

Commissioner's Review

The Commissioner does not decide whether the treatment the Petitioner received is medically or dentally necessary. The question is whether it is a covered benefit under the Petitioner's medical insurance.

The Petitioner's health plan does not include general dental coverage. Dental treatment is only covered under very limited circumstances, i.e., when the care is required because of an "accidental injury to sound natural teeth."

The Petitioner failed to establish that her dental care was required because of an accidental injury to her sound natural teeth. The accidental injury the Petitioner sustained on August 13, 2007, was not an injury to "sound natural teeth" but rather to her neck. No information was provided by a dentist, physician, or chiropractor to show that sound natural teeth were injured in that accident or, moreover, that an injury to the Petitioner's neck caused the misalignment of her teeth. The treatment plan (bridges, crowns, veneers, coronoplasties, and MAGOs) for which the Petitioner is requesting coverage may be necessary but it has not been shown that it is a covered benefit.

The Commissioner finds that BCBSM's denial of coverage of dental care is consistent with the benefit guide.

V. ORDER

Blue Cross Blue Shield of Michigan's final adverse determination of July 1, 2011, is upheld. BCBSM is not required to authorize or cover the Petitioner's dental treatment plan for full mouth reconstruction.

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 Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner