

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. 153290-001

Blue Cross Blue Shield of Michigan,
Respondent.

Issued and entered
this 13th day of May 2016
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for radiology services by her health insurer, Blue Cross Blue Shield of Michigan (BCBSM).

On April 19, 2016, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of that denial under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* After a preliminary review, the Director accepted the request on April 26, 2016.

The Petitioner receives health care coverage through an individual plan underwritten by BCBSM. The Director immediately notified BCBSM of the request and asked for the information it used to make its final adverse determination. BCBSM responded on April 27, 2016.

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

The Petitioner's health care benefits are defined in the *Blue Cross Premier Silver Benefits Certificate* (the certificate).

On August 25, 2015, the Petitioner had radiology services (CPT code 70486, “computed tomography, maxillofacial area”) performed by Advanced Dental Imaging of Michigan, a nonparticipating provider. The charge \$275.00. BCBSM denied coverage because this provider is nonparticipating and there was no preauthorization.

The Petitioner appealed the denial through BCBSM’s internal grievance process. At the conclusion of that process, BCBSM affirmed its denial and issued a final adverse determination dated March 9, 2016. The Petitioner now seeks a review of that determination by the Director.

III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner’s radiology services?

IV. ANALYSIS

Respondent’s Argument

In the final adverse determination, BCBSM’s representative told the Petitioner’s authorized representative:

As a Grievance and Appeals Coordinator, I reviewed the claim, your appeal, and [the Petitioner’s] health care plan benefits for [BCBSM]. After review, I have confirmed that payment cannot be approved because the service is not a benefit when the provider does not obtain prior authorization for the service and the provider is not a participating facility.

[The Petitioner] is an eligible dependent covered under the *Blue Cross Premier Silver Benefits Certificate*. On page 98 of **Section 3: What BCBSM Pays For**, your certificate provides that we pay for select radiology procedures, such as CAT, MRI and PET scan if:

- The provider requests preapproval,
- The procedures for which preapproval was requested fall within BCBSM medical policy guidelines and
- We approve the procedures

And the service must be provided in a participating facility. If any of these requirements are not met, BCBSM will not pay for the procedure.

As explained on page 169 of the *Certificate*, nonparticipating providers are physicians and other health care professional, or hospitals and other facilities or programs that have not signed a participation agreement with BCBSM to accept the approved amount as payment in full for services provided.

Our records indicate that Advanced Dental Imaging of Michigan, is a nonparticipating provider and they did not request prior authorization for the service provided. As a result, payment cannot be approved.

Petitioner's Argument

Included with the external review request was a letter from the Petitioner's authorized representative dated April 19, 2016, which said:

I write on behalf of [the Petitioner], concerning the BCBSM denial of benefits for services received on 08/25/15 from Advanced Dental Imaging of Michigan. . . .

. . . I would like to address two points raised by BCBSM in their letter. First, . . . there is an indication that Advanced Dental Imaging of Michigan is a non-participating provider and did not request prior authorization for the service provided. While apparently true, this was unknown to [the Petitioner], and in all of the many years of her having insurance through BCBSM, she had never been required to obtain prior authorization for any service she received. This may have been because the facility or provider that she sought treatment from obtained this authorization on her behalf; however, Advanced Dental Imaging of Michigan told [her] that BCBSM has never required prior authorization, and thus, this was not sought. The irony of course, is that had such prior authorization been sought, it would have been given, the service approved, and the appropriate amount re-paid on [the Petitioner's] behalf. This would not seem to be [the Petitioner's] fault, and should be used as a bar to her action for reimbursement.

Additionally, Advanced Dental Imaging of Michigan provided [the Petitioner] with a claim form to seek reimbursement for fees she paid. Somehow, and not at [the Petitioner's] request, the BCBSM system processed this as a provider claim, which is why the message on the explanation of benefits statement said BCBSM had requested additional information from the provider, and we should wait for that information. Again, how would we reasonably know that the BCBSM system would interpret the claim form that we submitted as one from a provider. As stated in my 02/02/16 letter:

"Nothing in the EOB indicates that this is the information that BCBS was seeking, or the reason for the denial. Had we been aware of this requirement, either at the time of the procedure, or at the time BCBS stated it was seeking additional information, I believe it would have been very simple to have received the authorization (even if retroactive in nature) so as to satisfy any requirements of BCBS."

Director's Review

The benefit for diagnostic radiology services is described in the certificate (pp. 97-98):

Radiology Services

* * *

Locations: We pay for hospital, facility and physician diagnostic and therapeutic radiology services in:

- A participating hospital, inpatient or outpatient, or participating outpatient facility
- A BCBSM-approved physician's office

We pay for:

Diagnostic Radiology Services

- We pay for facility and physician diagnostic radiology services to diagnose disease, illness, pregnancy or injury. The services must be provided by your physician or by another physician if prescribed by your physician:
 - X-rays
 - Radioactive isotope studies and use of radium
 - Ultrasound
 - Computerized axial tomography (CAT) scans
 - Magnetic resonance imaging (MRI)
 - Positron emission tomography (PET) scans
 - Medically necessary mammography
 - Nuclear cardiac studies

* * *

- Restrictions
 - Complex radiology such as CAT, MRI and PET scans must be performed in participating facilities. You or your physician may call us for a list of participating facilities. Also you may call us for information about any restrictions.
 - Select radiology procedures, such as CAT, MRI and PET scans are payable if:
 - The provider requests preapproval. However, preapproval is not required for radiology procedures when:
 - Performed out-of-state
 - Performed in cases of emergency

- The procedures for which preapproval was requested fall within BCBSM medical policy guidelines and
- We approve the procedures
- The procedures are performed in a participating facility. (You or your physician may call us about the status of a specific facility.)

This provision explains that “complex radiology” (such as CAT scans, etc.) must be both preapproved and performed in a participating facility. Since it is undisputed that Advanced Dental Imaging of Michigan is not a participating facility and that there was no preapproval for the radiology services, the Director concludes that BCBSM correctly denied coverage.

The Petitioner argues that she was not aware that preapproval was required for certain radiology services and that she had never been required to obtain preapproval in the past. Nevertheless, the Director’s decision must be based on the actual terms of the certificate; the Director has no authority to require BCBSM to provide coverage that is inconsistent with those terms.

The Director finds that BCBSM’s denial of the radiology services provided to the Petitioner on August 25, 2015, at Advanced Dental Imaging of Michigan is consistent the terms and conditions of the certificate.

V. ORDER

The Director upholds BCBSM’s March 9, 2016, 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:



Randall S. Gregg
Special Deputy Director