

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. 153350-001

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

On April 21, 2016, ██████████ (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 April 28, 2016.

The Petitioner receives health care coverage through a group plan underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The benefits are defined in BCBSM's *Community Blue Group Benefits Certificate SG*. The Director notified BCBSM of the request and asked for the information used to make its final adverse determination. BCBSM provided its response on May 3, 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

On December 27, 2015, the Petitioner received a shingles vaccination at a ██████████ pharmacy in Traverse City. The Petitioner paid \$259.99 to the pharmacy and submitted a claim for that amount to BCBSM. BCBSM denied coverage. The Petitioner appealed the denial through BCBSM's internal grievance process. At the conclusion of the process BCBSM

affirmed the denial and issued a final adverse determination dated April 11, 2016. The Petitioner now seeks the Director's review of that determination.

III. ISSUE

Did BCBSM correctly deny coverage for the Petitioner's shingles vaccination?

IV. ANALYSIS

Respondent's Argument

In the final adverse determination BCBSM's representative wrote to the Petitioner:

You are covered under the *Community Blue Group Benefits Certificate SG*. On page 78 of your certificate, under **Section 3: What Blue Cross Blue Shield of Michigan (BCBSM) Pays For, Preventive Care Services** it states that preventive care services, except for colonoscopies, mammograms, and woman's contraceptive services are covered only when performed by an in-network provider.

Although your coverage covers immunization services, there are restrictions that determine the payment of claims. In this instance, the performing provider, [REDACTED] Pharmacy, was not an in-network provider for medical services and we confirmed the immunization service you received, Zoster (shingles) vaccine, live, for subcutaneous injection (procedure code 90736) is a benefit under your medical plan. [REDACTED] Pharmacy is only an in-network provider for pharmacy services and not medical services. As a result, the denial of payment is correct.

Also, while you received prior authorization for a zoster vaccination shot on October 13, 2013, as it states in that letter, prior authorization was not a guarantee of payment.

Petitioner's Argument

In a letter to BCBSM filed with her request for an external review, the Petitioner wrote:

I am writing to appeal the decision of denying my claim for reimbursement for the shingles vaccination I received on 12/27/15.

This service had been pre-approved by BCBS representative Chimere Smith in October 2013.

I had to wait for one year for the shingles virus to be out of my system before receiving the vaccination. I also had to save up money in order to pay for this out of pocket.

During my shingles episode I had 7 doctor's visits, and one Emergency room visit and almost lost my vision due to an inclusion in my eye. By getting the vaccine, I am doing preventive care, which in the end would cost BCBS less in claims.

I called Chimere Smith at BCBS prior to the vaccination and there was never a discussion as to where I was to get this done. My primary care doctor...does not offer the vaccination. I get my [prescriptions] filled at Rite Aid therefore this is an approved provider within your system.

I find this entire process disheartening as I am self-employed and pay over \$700 per month/\$8400 per year for my coverage and to have this denied when it is approved is wrong.

Director's Review

The *Community Blue Group Benefits Certificate* (page 78) covers preventive services including immunizations:

Most preventive care services are covered only when performed by an in-network provider. However, colonoscopies, mammograms, and women's contraceptive services that are preventive in nature are covered whether performed by an in-network or out-of-network provider. This section describes what we cover for all preventive care services.

Locations: We pay for facility and professional services for preventive care in the following locations subject to the conditions described below:

- A participating outpatient hospital or participating facility
- A professional provider's office

██████ is a BCBSM in-network provider for pharmacy services, not medical services. Since the Petitioner's immunization is covered under the benefit plan's medical coverage, it is not a covered benefit since it was obtained from a non-network provider.

The Petitioner argues that BCBSM approved her shingles immunization and did not indicate there were limits on where she had to obtain it in order for it to be a covered service.

The approval to which the Petitioner refers in her appeal is a BCBSM letter dated October 18, 2013 which states:

This letter is in response to your appeal. After review, our medical consultant determined that you and your provider's request for authorization of the Zoster vaccination prior to the age of 60 was approved. You may submit a claim to Blue Cross Blue Shield of Michigan, along with a copy of this letter.

Please keep in mind that this is not a guarantee of payment. You must have active coverage on the service date. Additionally, the service must be a benefit of your group's health plan.

In conducting reviews under the Patient's Right to Independent Review Act (PRIRA), the Director is limited to resolving questions of medical necessity and determining whether an insurer's final adverse determination is consistent with the terms of the relevant policy or

certificate of coverage. See MCL 550.1911(13). Under the PRIRA, the Director has no authority to amend the terms of an insurance policy to require BCBSM to provide the coverage that is inconsistent with the Petitioner's actual benefits.

Section 3 of the *Community Blue* certificate provides that preventive care benefits must be obtained from network providers in order to be covered. Based on this requirement, the Director finds that BCBSM's denial of coverage is consistent with the terms of the *Community Blue Group Benefits Certificate*.

V. ORDER

The Director upholds BCBSM's April 11, 2016 final adverse determination. BCBSM is not required to provide coverage for the Petitioner's shingles vaccination.

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 'RSG', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director