

**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. 153487-001-SF**

**University of Michigan, Plan Sponsor**  
**and**  
**Blue Cross Blue Shield of Michigan, Plan Administrator**  
**Respondents**

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**Issued and entered**  
**this 24<sup>th</sup> day of May 2016**  
**by Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On May 2, 2016, ██████████ on behalf of his minor daughter ██████████ (Petitioner), filed a request for external review with the Department of Insurance and Financial Services, appealing a claim denial issued by Blue Cross Blue Shield of Michigan (BCBSM), the administrator of the Petitioner's health benefit plan which is sponsored by the University of Michigan.

The request for external review was filed under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.* Act 495 requires the Director to provide external reviews to a person covered by a self-funded health plan that is established or maintained by a state or local unit of government. The Director's review is performed "as though that person were a covered person under the Patient's Right to Independent Review Act." (MCL 550.1952)

The Petitioner receives health care coverage through the University of Michigan, a governmental self-funded health benefit plan. The benefits are described in BCBSM's *Community Blue Group Benefits Certificate ASC* and *Rider CB-AMB ASC Community Blue Autism Mandated Benefits*.

On May 9, 2016, after a preliminary review of the information submitted, the Director accepted the Petitioner's request for external review. The Director notified BCBSM of the

appeal and asked BCBSM to provide the information used to make its final adverse determination. BCBSM furnished its response on May 16, 2016.

This case presents an issue of contractual interpretation. 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**

In June 2015 the Petitioner's parents enrolled her in weekly Applied Behavior Analysis (ABA) therapy. BCBSM denied coverage for the ABA therapy. Petitioner's physician later requested authorization for ABA therapy. BCBSM denied the request.

The Petitioner appealed BCBSM's denial of ABA therapy through its internal grievance process. BCBSM held a managerial-level conference and issued a final adverse determination dated April 15, 2016, affirming its decision. The Petitioner now seeks a review of that adverse determination from the Director.

## **III. ISSUE**

Is BCBSM required to pay for ABA therapy provided the Petitioner?

## **IV. ANALYSIS**

### Petitioner's Argument

The Petitioner's father stated in the request for an external review:

Our daughter suffers from many difficulties due to her extreme prematurity including ADHD, cognitive processing delay and social development delays, which have rendered her incapable of functioning in the larger world, especially school. ABA therapy is treating her for these symptoms, but her insurance will not pay. We want to be reimbursed for previous ABA and future ABA to be covered.

Petitioner's physician also provided Petitioner's autism evaluation, and additional information to document her history and the medical necessity of ABA therapy.

### BCBSM's Argument

In the final adverse determination issued to the Petitioner, BCBSM wrote:

[T]he criteria for ABA are not met. Specifically, your daughter does not have a diagnosis of autism spectrum disorder. Therefore, the authorization denial is correct and is maintained.

[The Petitioner] is covered under the *Community Blue Group Benefits Certificate ASC and Rider CB-AMB ASC Community Blue Autism Mandated Benefit*. The Rider adds benefits for the diagnosis and treatment of autism disorders, subject to specific criteria and requirements. I have enclosed the full rider for your review. You will see that the Note on Page 2 of the Rider details the following with regard to ABA:

Before applied behavior analysis will be covered, a BCBSM-approved autism evaluation center must evaluate and diagnose the member as having one of the covered autism spectrum disorders.

As discussed, your daughter does not have a diagnosis of autism spectrum disorder. Therefore, she does not meet the criteria for approval.

### Director's Review

The Petitioner's health plan provides coverage for ABA therapy under *Rider CB-AMB ASC*. Under this rider ABA is covered only after a BCBSM approved autism evaluation center has diagnosed the member as having one of the covered autism spectrum disorders. If the patient does not have an autism spectrum disorder diagnosis, ABA therapy is not a covered benefit.

No information was provided to the Director for this review establishing that the Petitioner has a diagnosis of autism spectrum disorder. Therefore, the Petitioner's ABA therapy is not a covered benefit. The Director finds that BCBSM's denial of ABA therapy for the Petitioner is consistent with the provisions of the benefit plan.

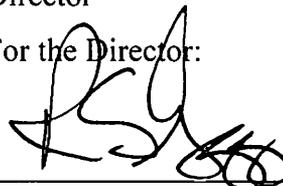
### **V. ORDER**

The Director upholds BCBSM's final adverse determination of April 15, 2016.

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 sixty 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:



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Randall S. Gregg  
Special Deputy Director