

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. 152278-001

Blue Care Network of Michigan,

Respondent.

Issued and entered
this 15th day of March 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) asked his health plan, Blue Care Network of Michigan (BCN), to allow him to have a liver transplant at a hospital of his choosing. BCN denied the request.

On February 18, 2016, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of BCN's denial under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner receives group health care benefits through BCN, a health maintenance organization. The Director immediately notified BCN of the external review request and asked for the information it used to make its final adverse determination. BCN responded on February 22, 2016, and the Director accepted the request on February 26, 2016. BCN furnished additional information for the review on March 1, 2016.

The issue in this external review can be decided by an analysis of the contract that defines the Petitioner's health care benefits. 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's health care benefits are described in BCN's *Certificate of Coverage BCN Classic for Large Groups* (the certificate).

The Petitioner has end stage liver disease due to alcoholic cirrhosis of the liver. He has received

medical treatment for his condition over the past year and half at [REDACTED]
[REDACTED] When his physician asked BCN to authorize a liver transplant at Beaumont, BCN denied the request. BCN said it would cover the transplant at one of its “Blue Distinction Centers” for liver transplants: Henry Ford Health System or the University of Michigan Hospital.

The Petitioner appealed the denial through BCN’s internal grievance process. At the conclusion of this process BCN issued a final adverse determination on January 12, 2016, upholding its denial. The Petitioner now seeks a review of that6 final adverse determinations from the Director.

III. ISSUE

Did BCN properly deny authorization for the Petitioner’s request to have his liver transplant performed at Beaumont?

IV. ANALYSIS

Petitioner’s Argument

In an undated letter to BCN that was submitted with the external review request, the Petitioner wrote:

I am writing to dispute the decision to deny approval for my liver transplant with [REDACTED]. While [REDACTED] may not be a Blue Distinction Center it is the center that I have been receiving top-quality care at for the last year and half. [My doctors] have been invaluable to my healing process and medication regulation and their teams are prompt and reassuring when I need them to be most. I know that my tests will be sent out as soon as possible and I will be given results as quickly as they are available.

As I am sure you know, healthcare is rife with terrible experiences, aggravation and discomfort as the process can drag on. Many doctors are seeing more patients than they have time for which causes more stress and more health problems for their patients. I have felt nothing but calm and cared for with my doctors and cannot imagine this journey without them. In addition to the stress that would be caused by switching not just doctors but entire medical teams, the drive from my home in [REDACTED] to Ann Arbor would be a tremendous change and it would not be financially or emotionally advantageous for me and my family.

I beg you to reconsider your denial of my request. This has been a terrible time in our lives. I never thought I would need this extreme level of care. But now that I do, I want to continue to receive the quality of care I have received at [REDACTED]. I know that my treatment and transplant will proceed smoothly with my current team and that I will heal and thrive much better close to home with people I know and trust.

Respondent's Argument

In its final adverse determination, BCN told the Petitioner's authorized representative:

Our step two grievance panel . . . reviewed your request for approval of liver transplant at [REDACTED], and upheld the previous denial. We based our decision on the criteria previously advised in the enclosed letter from our Care Management department dated 10/27/15.

In the October 27, 2015, letter BCN said:

Blue Care Network has reviewed your request . . . but cannot approve payment because the service does not meet our medical policy criteria:

BCN HMO (commercial) members are required to have transplants performed at a BCN approved facility. BCN requires transplants to be performed at a Blue Distinction Center Facility. Please see your BCN Classic for Large Groups certificate section 8.21 Organ and Tissue Transplants. The request for a liver transplant at a facility that is not a Blue Distinction Center Facility, Beaumont, cannot be approved as this transplant is available at a Blue Distinction Center Facility. This transplant is available in Michigan at the University of Michigan Hospital System which is a Blue Distinction Center for this transplant or Henry Ford Hospital which is a Blue Distinction Center for this transplant.

Director's Review

The certificate, in "Section 8.21 Organ and Tissue Transplants" (p. 51), says:

We cover organ or body tissue transplant and related services. The following conditions must be met:

- Considered non-experimental in accordance with generally accepted medical practice
- Medically necessary
- Preauthorized by BCN
- Performed at a BCN-approved transplant Facility

BCN has recognized certain facilities as Blue Distinction Centers for transplants. Blue Distinction Centers are explained in a Blue Cross Blue Shield Association document entitled "Specialty Care: An Overview":

Blue Distinction Centers and Blue Distinction Centers+ for Transplants have demonstrated their commitment to quality care, resulting in better overall outcomes for transplant patients. Each facility meets stringent clinical criteria, established in collaboration with expert physicians and medical organizations recommendations, including the Center for International Blood and Marrow Transplant Research (CIBMTR), the Scientific Registry of Transplant Recipients (SRTR) and the Foundation

for the Accreditation of Cellular Therapy (FACT), and is subject to periodic re-evaluation as criteria continue to evolve. Both Blue Distinction Centers and Blue Distinction Centers+ for Transplants help simplify the administrative process involved in this complex care so that patients, their families, and physicians can focus on the medical issues.

Hospitals receiving the Blue Distinction Centers+ for Transplants designation have met the Blue Distinction Centers' standards for quality while also demonstrating better cost-efficiency relative to their peers.

Beaumont is not a BCN-approved facility for liver transplants. There is nothing in the certificate or in Michigan law that would require BCN to cover a transplant at a non-approved facility, and a review under the Patient's Right to Independent Review Act does not give the Director the discretion to order such coverage.

The Director finds that BCN's denial of the Petitioner's request to have his liver transplant performed at Beaumont is consistent with the terms and conditions of the Petitioner's health care coverage.

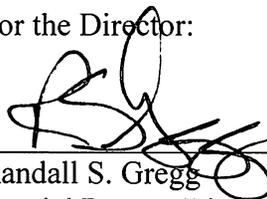
V. ORDER

The Director upholds BCN's January 12, 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