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ELIZABETH MAHER MUOIO
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JOHN D. MEGARIOTIS
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May 10, 2023

FINAL ADMINISTRATIVE DETERMINATION

Dear

I am writing in reference to your letter addressing the action of the State Health Benefits Commission (Commission) in denying your appeal for reimbursement of outpatient services rendered at a Tier 2 facility as if the services had been rendered at a Tier 1 facility. Your appeal was denied based on the rules that govern participation in the tiered network plan. The Commission herein expands its findings of fact and conclusions of law and issues this final administrative determination.

Findings of Fact

You are enrolled in the State Health Benefits Program (SHBP) as a dependent of your . You are enrolled in a tiered network plan administered for the SHBP by Horizon Blue Cross Blue Shield of New Jersey (Horizon) known as the OMNIA Plan.

The State Health Benefits Plan Design Committee (SHBP PDC) approved a plan design known as a "tiered network plan" effective for plan year 2016. Enrollment in a tiered network plan provides SHBP members access to the third-party administrator's managed care network, significant premium reductions, and lower member cost sharing based on the tier level of the selected provider. On August 29, 2016, the SHBP PDC adopted Resolution #7 to create a two-year pilot program to incentivize members to select a tiered network medical plan. The financial incentive for eligible State employees who enrolled in a tiered network plan was $1,000 for single coverage, $1,250 for member and spouse coverage or parent and child coverage, and $2,000 for family coverage. The incentive was forfeited if the member failed to maintain enrollment in a tiered network plan for two plan years.

On July 27, 2017, the SHBP PDC adopted Resolution 2017-02, which extended Resolution #7 for a period of one year. On June 22, 2018, the SHBP PDC, adopted Resolution 2018-02, which

extended Resolution #7 for a period of one year. On September 26, 2019, the SHBP PDC adopted Resolution 2019-11, which extended Resolution #7 for a period of one year.

On August 31, 2020, the SHBP Plan Design Committee adopted Resolution 2020-4, which extended Resolution #7 for a period of one year with certain modifications to the original incentive structure. Resolution 2020-4 changed the financial incentive for new tiered network plan enrollees to $1000 for all coverage types, but reduced the required enrollment period to one plan year. On August 13, 2021, the SHBP PDC adopted Resolution 2021-7, which extended Resolution #7 for a period of one year with the modifications to the original incentive structure established by Resolution 2020-4.[1]

During open enrollment for plan year 2022, your [redacted] enrolled both of you in the OMNIA Plan for member and spouse coverage. Your coverage under the OMNIA Plan was effective for January 1, 2022. The Division of Pensions and Benefits (Division) sent [redacted] the $1,000 tiered network enrollment incentive in February 2022.

On February 24, 2022, you began treating with [redacted], M.D. at Princeton Orthopaedic Associates (Princeton). Dr. [redacted] is a Tier 1 provider.

On March 17, 2022, you called Horizon and stated you needed to have two identical procedures on your back. You provided Horizon with procedure codes 64493 and 64494, and questioned what the exact dollar amount would be that Horizon would pay to a Tier 2 facility for those services. Horizon informed you it could not provide you with an exact dollar amount in a telephone call. Horizon recommended you submit a predetermination of benefits to get an exact dollar amount. You did not request a predetermination of benefits.

On June 23, 2022, a representative of Penn Medicine contacted Horizon on your behalf to get prior authorization for procedure codes 64635 (Destruction by neurolytic agent, paravertebral facet joint nerve(s), with imaging guidance (fluoroscopy or CT); lumbar or sacral, single facet joint) and 64636 (Destruction by neurolytic agent, paravertebral facet joint nerve(s), with imaging guidance (fluoroscopy or CT); lumbar or sacral, each additional facet joint). Horizon approved the request as non-urgent and pre-service.

On June 28, 2022, Dr. [redacted] performed a procedure commonly referred to as a nerve ablation at Penn Medicine Princeton Health (Penn). The procedure code was "64635-LT: Destruction by neurolytic agent, paravertebral facet joint nerve(s), within imaging guidance (fluoroscopy or CT; lumbar or sacral, single facet joint. Left side." On July 12, 2022[2], Dr. [redacted] performed a procedure commonly referred to as a "suture of a nerve" at Penn Medicine Princeton Health. The procedure code was "64835-RT: Suture of 1 nerve; median motor thenar. Right side." Penn Medicine Princeton Health is a Tier 2 facility.

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[1] On September 14, 2022, the SHBP PDC adopted Resolution 2022-5, which extended Resolution #7 for a period of one year with the modifications to the original incentive structure established by Resolution 2020-4.

[2] According to the hospital bill, the surgical procedures were performed on June 28, 2022 and July 12, 2022. These bills include June 27, 2022 and July 11, 2022 pre-operative services

Penn Medicine billed the SHBP $9,262.00 for the June 27, 2022 procedure. Horizon paid Penn Medicine $2,585.95. Penn Medicine billed the SHBP $9,731.00 for the July 11, 2022 procedure. Horizon paid Penn Medicine $1,491.21. Penn Medicine billed you a total of $2,519.29 for the June and July 2022 procedures, which represents your $1,500.00 deductible plus your 20% coinsurance for Tier 2 services.

On October 3, 2022, Horizon denied your request to have the claims paid at Tier 1 level benefits. On November 7, 2022, Horizon denied your First Level Administrative Appeal. On November 11, 2022, Horizon denied your Second Level Administrative Appeal and advised you of your Commission appeal rights.

On November 27, 2022, you requested a Commission appeal. The Commission heard your appeal at its meeting on January 11, 2023, where the appeal was denied. The appeal was denied based on the rules that govern participation in the OMNIA Plan.

On January 30, 2023, you requested a hearing in the Office of Administrative Law. On March 8, 2023, the Commission reviewed the relevant facts presented, including your presentation during which you asserted you are entitled to an exemption because the services were urgent, and determined that no issue of material fact exists. Therefore, the Commission denied your request for an OAL hearing.

Conclusions of Law

The SHBP provides comprehensive health coverage to qualified employees and retirees of the State and participating local employers and their dependents at an affordable cost. Heaton v. State Health Benefits Comm'n, 264 N.J. Super. 141, 151 (App. Div. 1993). The SHBP Act, N.J.S.A. 52:14-17.25 to -17.46a, grants the Commission the authority to negotiate and procure contracts for health insurance benefits "for participating public employees and their families, 'in the best interests of the State and its employees' as well as exclusive jurisdiction to determine disputed matters under the plan." Micheletti v. State Health Benefits Comm'n, 389 N.J. Super. 510, 513 (App. Div. 2007) (citing N.J.S.A. 52:14-17.27 to -17.28). The benefits under the contracts for the SHBP "may be subject to such limitations, exclusions, or waiting periods as the [C]ommission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or benefits otherwise available, including coverage afforded under the laws of the United States, such as the federal Medicare program, or for other reasons." N.J.S.A. 52:14-17.29(D). "The Commission must balance its obligations of meeting the health care needs of its members with a fiduciary obligation to make the program cost effective." Murray v. State Health Benefits Comm'n, 337 N.J. Super. 435, 440 (App. Div. 2001).

Pursuant to N.J.A.C. 17:9-2.14, the Commission adopts by reference all of the policy provisions contained in the SHBP health benefits contract, along with any subsequent amendments, to the exclusion of all other possible coverages. "The plans handbook supplements the master contracts and contains the specific provisions for services to be covered and those which are excluded." Ibid. Thus, the plans handbook "embod[ies] the terms of the [SHBP] as communicated to [its members]." Heaton, 264 N.J. Super. at 144.

Under the heading, "2022 OMNIA Health Plan Benefit Highlights," the SHBP OMNIA Plan Guidebook for 2022 (Guidebook) stated, in pertinent part:

Outpatient Surgery	OMNIA Tier 1	OMNIA Tier 2
Professional charges	No charge	Deductible then coinsurance
Facility charges	$150 copay	Deductible then coinsurance

[Id. at 9.]

The Guidebook noted the Tier 2 deductible is $1,500 for an individual and $3,000 for a family. Ibid. The Guidebook also noted the Tier 2 coinsurance is 20%. Ibid. Finally, the Guidebook informed members the OMNIA Plan "offers OMNIA Tier 1 coverage at in-network New Jersey hospitals and Tier 2 coverage at participating out-of-state hospitals." Id. at 20.

The Guidebook is clear and unambiguous and admits of only one interpretation. When a SHBP member enrolled in the OMNIA Plan has outpatient surgery at a Tier 2 facility, the member is responsible for the Tier 2 deductible and coinsurance. Penn Medicine is a Tier 2 facility. Therefore, you are responsible for the deductible and coinsurance for the June 27 and July 11, 2022, procedures performed at Penn Medicine.

You assert the SHBP should cover the June 27 and July 11, 2022 procedures as if the procedures were rendered at a Tier 1 facility because the procedures were emergent. The Guidebook defines an emergency as "a medical condition of such severity that a prudent layperson with average knowledge of health and medicine would call for immediate medical attention." Id. at 26. The first procedure took place 102 days after your March 2022 call to Horizon. The second procedure took place 116 days after your March 2022 call to Horizon. If a procedure can wait more than 100 days, then it is not emergent. Your appeal is denied.

You have the right, if you wish, to appeal this final administrative determination to the Superior Court of New Jersey, Appellate Division within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

Sincerely,

Kelly Fields

Kelly Fields
Secretary State Health Benefits Commission

[REDACTED] FAD
5/10/2023