



# State of New Jersey

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May 10, 2023

## FINAL ADMINISTRATIVE DETERMINATION

[REDACTED]

Dear [REDACTED]

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 treatment rendered by [REDACTED] MD in January through November 2019. Your appeal was denied because the State Health Benefits Program (SHBP) does not pay for services rendered by a provider who opts out of or is not registered with Medicare. The Commission herein expands its findings of fact and conclusions of law and issues this final administrative determination.

### Findings of Fact

You are covered by the State Health Benefits Program (SHBP) as a retiree. You retired in 2009. You had more than 25 years of creditable service in the Public Employees' Retirement System on June 30, 2007, so you were eligible for free SHBP retiree group health benefits for yourself and your dependents, which includes your son, [REDACTED]

[REDACTED] birthday is [REDACTED]. [REDACTED] is covered by the SHBP as an over age disabled child.<sup>2</sup> [REDACTED] is eligible for enrollment in Medicare due to his disability; [REDACTED] is also enrolled in the SHBP's NJ DIRECT15 plan.

<sup>1</sup> To avoid confusion, the parties are referenced by their first names. No disrespect is meant by this informality.

<sup>2</sup> The regulations governing the SHBP make coverage available for over age children with disabilities as long as the children are: (1) unmarried; (2) covered by their parent's SHBP plan prior to their 26th birthday; (3) incapable of self-sustaining employment by reason of mental or physical disabilities prior to their 26th birthday; and (4) substantially dependent upon their covered parent for support and maintenance. N.J.A.C. 17:9-3.1 and -3.4.

██████████ is also covered by private health insurance through ██████████ employer, Sodexo USA. The private insurance provided by ██████████ employer is ██████████ primary coverage. Medicare is ██████████ secondary coverage. The SHBP is tertiary.

██████████ saw Dr. ██████████ for behavioral health services from January 29, 2019 through November 6, 2019. Dr. ██████████ is not a Medicare provider. Dr. ██████████ billed a total of \$7,775.00 for ██████████ services. ██████████ primary, private insurance paid \$1,902.25 towards Dr. ██████████ services.

On February 5, 2021, Horizon Blue Cross Blue Shield of New Jersey (Horizon), the third-party medical benefits administrator for the SHBP, notified you the claims for Dr. ██████████ services were denied “because services rendered by providers who are not registered with Medicare are not covered by the SHBP plans.” On March 30, 2021, Horizon denied your final level of appeal and advised you of your appeal rights before the Commission. On April 6, 2021 and March 7, 2022, Horizon advised you of its March 30, 2021 Second Level Administrative Appeal determination.

On March 24, 2022, you requested a Commission appeal. The Commission heard your appeal at its meeting on September 14, 2022. The Commission considered all the information submitted, along with your presentation, and voted to deny your appeal for a reimbursement of treatment by Dr. ██████████

On September 30, 2022, you requested a hearing in the Office of Administrative Law. On November 9, 2022, the Commission reviewed the relevant facts presented 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 Commission has “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 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).

To control costs, SHBP retirees and dependents who meet the age or disability eligibility requirement for Medicare enrollment must enroll in Medicare once they qualify for the coverage. N.J.S.A. 52:14-17.26(c), (d). See also N.J.A.C. 17:9-1.8. In accordance with the statutory requirement for Medicare enrollment, the SHBP NJ DIRECT Member Guidebook for Employees and Retirees enrolled in the State Health Benefits Program or School Employees’ Health Benefits Program for Plan Year 2019 (Guidebook) advised the following under the heading “Medicare Coverage”:

IMPORTANT: When coordinating benefits with Medicare, the secondary benefit under NJ DIRECT is supplemental to the Medicare payment. NJ DIRECT will consider the remaining Medicare coinsurance and deductible as the allowable expense and

apply the applicable copayments, coinsurance, or deductible when appropriate. If a provider is not registered with or opts out of Medicare, no benefits are payable under the SHBP or SEHBP for the provider's services, the charges would not be considered under the medical plan, and the member will be responsible for the charges.

[Id. at 11.]

Additionally, under Charges Not Covered by NJ DIRECT, the Guidebook listed: "Medicare services rendered by providers who are not registered with or opt-out of Medicare." Id. at 47. The Guidebook "embod[ies] the terms of the [SHBP] as communicated to [its members]." Heaton, 264 N.J. Super. at 144. Likewise, Fact Sheet #23, Health Benefits Programs and Medicare Parts A & B for Retirees, for 2019 also stated: "If a health care professional is not registered with or opts out of Medicare, no benefits are payable under the [SHBP] for the health care professional's services, the charges would not be considered under the medical plan, and the member will be responsible for the charges." Ibid.

The Guidebook and Fact Sheet #23 are clear and unambiguous. If health care professionals are not registered with or opt out of Medicare, no benefits are payable under the SHBP for their services. Dr. [REDACTED] was not a Medicare provider at the time the services were performed. Therefore, you are responsible for the charges for Dr. [REDACTED] services.

Your argument the SHBP should pay for Dr. [REDACTED] services because the SHBP is tertiary to [REDACTED] private health insurance is unavailing. "When coordinating benefits with Medicare, the secondary benefit under NJ DIRECT is supplemental to the Medicare payment." Guidebook at 11. While [REDACTED] SHBP coverage is tertiary to his private health insurance, it is still secondary to [REDACTED] Medicare coverage. Since Dr. [REDACTED] is not registered with Medicare, no benefits are payable under the SHBP for [REDACTED] services. 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