

STATE OF NORTH CAROLINA  
COUNTY OF PITT

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
15 INS 00833

Stacy M Warner Petitioner  v.  N.C. State Health Plan Respondent	<b>FINAL DECISION GRANTING SUMMARY JUDGMENT</b>
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THIS MATTER is before the for consideration of Respondent's Motion for Summary judgment Honorable Donald W. Overby, Administrative Law Judge presiding, for consideration of Respondent's Motion for Summary Judgment filed with the Office of Administrative Hearings on June 29, 2015. This matter was scheduled for hearing on June 22, 2015. After brief discussions in open court it was decided that summary judgment was appropriate in this matter in that there is no genuine issue of material fact. Both parties were given an opportunity to orally argue their contentions on June 22, 2015, and were given an opportunity to present this Tribunal with any written argument or other documentation to support their respective positions on or before June 29, 2015. Each party submitted written documentation for consideration.

Having considered matters of record in this contested case, the written submissions of both parties as well as their oral arguments, this matter is appropriate for entry of summary judgment. The United States Preventative Services Task Force (USPSTF) recommends what services are to be covered in grade A and B. In the USPSTF recommendations, the topic "BRCA risk assessment and genetic counseling/testing" is a recommendation for women to be screened. In the topic "Breast cancer screening," only mammography is recommended. The only other topic related to breast cancer is in regards to medications. MRIs are not listed within the USPSTF recommendations. (R. Ex. 7) Blue Cross Blue Shield provides a list of preventive services covered at 100% under the Affordable Care Act and MRIs are not included.

Based on the articles submitted by Petitioner, such as the prestigious New England Journal of Medicine, perhaps MRIs should be included as part of a preventative regime for patients such as Petitioner. However, MRIs are not included as a recommended preventive breast screening by the USPSTF, and MRIs are not required preventive services or screening under the Affordable Care Act or Petitioner's health benefit health plan that must be covered at 100%. The payment of Petitioner's claim for the June 17, 2014 MRI was correct according to her plan and her benefits under the State Health Plan.

Now, Therefore, Respondent's Motion for Summary Judgment is **ALLOWED** and Respondent is not required to cover Petitioner's MRI at 100%.

### **NOTICE**

**This is a Final Decision** issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statute § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

IT IS SO ORDERED.

This the 31<sup>st</sup> day of July, 2015.

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Donald W. Overby  
Administrative Law Judge