

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

C.P., by and through his parents, Patricia  
Pritchard and Nolle Pritchard on his own behalf  
and on behalf of similarly situated others; and  
PATRICIA PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

DECLARATION OF DANIEL S. GROSS  
IN SUPPORT OF PLAINTIFFS' REPLY IN  
SUPPORT FOR MOTION FOR LEAVE TO  
FILE SECOND AMENDED COMPLAINT  
AND TO ADD PARTIES AS ADDITIONAL  
CLASS REPRESENTATIVES

**Note on Motion Calendar:  
October 13, 2023**

I, Daniel S. Gross, declare under penalty of perjury and in accordance with the laws of the State of Washington and the United States that:

1. I am an attorney at Sirianni Youtz Spoonemore Hamburger and am one of the attorneys representing Plaintiffs and the Class in this action.

2. Attached as **Exhibit A** is a true and correct copy of excerpts from the Summary Plan Description, Benefit Booklet and/or other Plan documents for the health plan funded by S.L.'s father's employer and administered by BCBSIL, and in which S.L. was an insured, effective April 1, 2022, to March 31, 2023.

3. Attached as **Exhibit B** is a true and correct copy of excerpts from the Summary Plan Description, Benefit Booklet and/or other Plan documents for the health plan funded by



# Exhibit A

## Table of Contents

NOTICE .....	3
BENEFIT HIGHLIGHTS .....	5
DEFINITIONS SECTION .....	8
ELIGIBILITY SECTION .....	36
UTILIZATION MANAGEMENT AND REVIEW .....	41
CLAIM ADMINISTRATOR’S BEHAVIORAL HEALTH UNIT .....	51
THE PARTICIPATING PROVIDER OPTION .....	58
HOSPITAL BENEFIT SECTION .....	60
PHYSICIAN BENEFIT SECTION .....	65
OTHER COVERED SERVICES .....	75
SPECIAL CONDITIONS AND PAYMENTS .....	78
HOSPICE CARE PROGRAM .....	94
BENEFITS FOR MEDICARE ELIGIBLE COVERED PERSONS .....	95
EXCLUSIONS - WHAT IS NOT COVERED .....	96
COORDINATION OF BENEFITS SECTION .....	101
CONTINUATION COVERAGE RIGHTS UNDER COBRA .....	103
HOW TO FILE A CLAIM AND APPEALS PROCEDURES .....	107
GENERAL PROVISIONS .....	124
REIMBURSEMENT PROVISION .....	136

## EXCLUSIONS - WHAT IS NOT COVERED

Expenses for the following are not covered under your benefit program:

— **Hospitalization, services and supplies which are not Medically Necessary.**

No benefits will be provided for services which are not, in the reasonable judgment of the Claim Administrator, Medically Necessary. Medically Necessary means that a specific medical, health care or Hospital service is required, in the reasonable medical judgment of the Claim Administrator, for the treatment or management of a medical symptom or condition and that the service or care provided is the most efficient and economical service which can safely be provided.

Hospitalization is not Medically Necessary when, in the reasonable medical judgment of the Claim Administrator, the medical services provided did not require an acute Hospital Inpatient (overnight) setting, but could have been provided in a Physician's office, the Outpatient department of a Hospital or some other setting without adversely affecting the patient's condition.

Examples of hospitalization and other health care services and supplies that are not Medically Necessary include:

- Hospital admissions for or consisting primarily of observation and/or evaluation that could have been provided safely and adequately in some other setting, e.g., a Physician's office or Hospital Outpatient department.
- Hospital admissions primarily for diagnostic studies (x-ray, laboratory and pathological services and machine diagnostic tests) which could have been provided safely and adequately in some other setting, e.g., Hospital Outpatient department or Physician's office.
- Continued Inpatient Hospital care, when the patient's medical symptoms and condition no longer require their continued stay in a Hospital.
- Hospitalization or admission to a Skilled Nursing Facility, nursing home or other facility for the primary purposes of providing Custodial Care Service, convalescent care, rest cures or domiciliary care to the patient.
- Hospitalization or admission to a Skilled Nursing Facility for the convenience of the patient or Physician or because care in the home is not available or is unsuitable.
- The use of skilled or private duty nurses to assist in daily living activities, routine supportive care or to provide services for the convenience of the patient and/or his family members.

These are just some examples, not an exhaustive list, of hospitalizations or other services and supplies that are not Medically Necessary.

- Nutritional items such as infant formulas, weight-loss supplements, over-the-counter food substitutes, non-prescription vitamins and herbal supplements, other than those specifically named in this benefit booklet.
- Reversals of sterilization.
- Services and supplies rendered or provided for the treatment of infertility including, but not limited to, Hospital services, Medical Care, therapeutic injections, fertility and other drugs, Surgery, artificial insemination and all forms of in-vitro fertilization.
- Gender reassignment Surgery (also referred to as transsexual Surgery, sex reassignment Surgery or intersex Surgery), including related services and supplies.
- Acupuncture.
- Appliances for Temporomandibular Joint Dysfunction.
- Any related services to a non-covered service. Related services are a) services in preparation for the non-covered service; b) services in connection with providing the non-covered service; c) hospitalization required to perform the non-covered service; or d) services that are usually provided following the non-covered service, such as follow up care or therapy after surgery.
- Self-Administered drugs dispensed by a Physician.
- Behavioral health services provided at behavioral modification facilities, boot camps, emotional group academies, military schools, therapeutic boarding schools, wilderness programs, halfway houses, and group homes, except for Covered Services provided by appropriate Providers as defined in this benefit booklet.

Any of the following applied behavioral analysis (ABA) related services:

- Services with a primary diagnosis that is not Autism Spectrum Disorder;
- Services that are facilitated by a Provider that is not properly credentialed. Please see the definition of “Qualified ABA Provider” in the DEFINITIONS SECTION of this benefit booklet;
- Activities primarily of an educational nature;
- Shadow or companion services; or
- Any other services not provided by an appropriately licensed Provider in accordance with nationally accepted treatment standards.

Administered by:



**BlueCross BlueShield of Illinois**

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ASO-1

Effective Date: April 1, 2022

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# **Exhibit B**

## Table of Contents

NOTICE .....	3
BENEFIT HIGHLIGHTS.....	5
DEFINITIONS SECTION.....	8
ELIGIBILITY SECTION .....	38
UTILIZATION MANAGEMENT AND REVIEW.....	43
CLAIM ADMINISTRATOR’S BEHAVIORAL HEALTH UNIT.....	54
THE PARTICIPATING PROVIDER OPTION.....	61
HOSPITAL BENEFIT SECTION.....	63
PHYSICIAN BENEFIT SECTION .....	67
OTHER COVERED SERVICES .....	76
SPECIAL CONDITIONS AND PAYMENTS .....	78
HOSPICE CARE PROGRAM.....	95
BENEFITS FOR MEDICARE ELIGIBLE COVERED PERSONS.....	96
EXCLUSIONS - WHAT IS NOT COVERED .....	97
COORDINATION OF BENEFITS SECTION.....	103
CONTINUATION COVERAGE RIGHTS UNDER COBRA .....	105
HOW TO FILE A CLAIM AND APPEALS PROCEDURES .....	109
GENERAL PROVISIONS.....	126
REIMBURSEMENT PROVISION .....	137
BENEFIT BOOKLET NO SURPRISES ACT AMENDMENT .....	138

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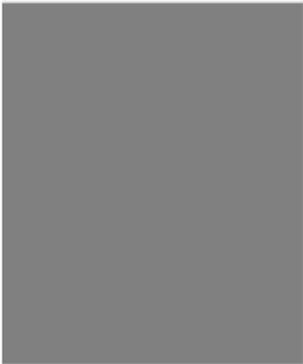
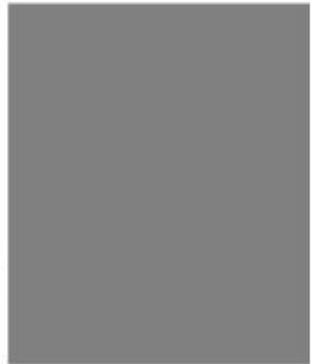
No benefits will be provided for services which are not, in the reasonable judgment of the Claim Administrator, Medically Necessary. Medically Necessary means that a specific medical, health care or Hospital service is required, in the reasonable medical judgment of the Claim Administrator, for the treatment or management of a medical symptom or condition and that the service or care provided is the most efficient and economical service which can safely be provided.

Hospitalization is not Medically Necessary when, in the reasonable medical judgment of the Claim Administrator, the medical services provided did not require an acute Hospital Inpatient (overnight) setting, but could have been provided in a Physician's office, the Outpatient department of a Hospital or some other setting without adversely affecting the patient's condition.

Examples of hospitalization and other health care services and supplies that are not Medically Necessary include:

- Hospital admissions for or consisting primarily of observation and/or evaluation that could have been provided safely and adequately in some other setting, e.g., a Physician's office or Hospital Outpatient department.
- Hospital admissions primarily for diagnostic studies (x-ray, laboratory and pathological services and machine diagnostic tests) which could have been provided safely and adequately in some other setting, e.g., Hospital Outpatient department or Physician's office.
- Continued Inpatient Hospital care, when the patient's medical symptoms and condition no longer require their continued stay in a Hospital.
- Hospitalization or admission to a Skilled Nursing Facility, nursing home or other facility for the primary purposes of providing Custodial Care Service, convalescent care, rest cures or domiciliary care to the patient.
- Hospitalization or admission to a Skilled Nursing Facility for the convenience of the patient or Physician or because care in the home is not available or is unsuitable.
- The use of skilled or private duty nurses to assist in daily living activities, routine supportive care or to provide services for the convenience of the patient and/or his family members.

- Diagnostic Service as part of routine physical examinations or check-ups, premarital examinations, determination of the refractive errors of the eyes, auditory problems, surveys, case finding, research studies, screening, or similar procedures and studies, or tests which are Investigational, unless otherwise specified in this benefit booklet.
- Procurement or use of prosthetic devices, special appliances and surgical implants which are for cosmetic purposes, the comfort and convenience of the patient, or unrelated to the treatment of a disease or injury.
- Wigs (also referred to as cranial prostheses), unless otherwise specified in this benefit booklet.
- Services and supplies rendered or provided for human organ or tissue transplants other than those specifically named in this benefit booklet.
- Scanning the visible front portion of the eye with computerized ophthalmic diagnostic imaging or measuring the firmness of the front of the eye with corneal hysteresis by air impulse stimulation.
- Testing of blood for measurement of levels of: Lipoprotein a; small dense low density lipoprotein; lipoprotein subclass high resolution; lipoprotein subclass particle numbers; lipoprotein associated phospholipase A2, which are fat/protein substances in the blood that might be ordered in people with suspected deposits in the walls of blood vessels; urine for measurement of collagen cross links, which is a substance that might be ordered in people with suspected high bone turnover; cervicovaginal fluid for amniotic fluid protein during pregnancy, which might be ordered in people suspected to have fluid leaking from around the baby (premature ruptured membranes); and allergen specific IgG measurement.
- Acupuncture, whether for medical or anesthesia purposes, dry needling, or trigger-point acupuncture.
- Nutritional items such as infant formulas, weight-loss supplements, over-the-counter food substitutes, non-prescription vitamins, and herbal supplements, other than those specifically named in this benefit booklet.
- Reversals of sterilization.
- Services and supplies rendered or provided for the treatment of Infertility including, but not limited to, Hospital services, Medical Care, therapeutic injections, fertility and other drugs, Surgery, artificial insemination and all forms of in-vitro fertilization.
- Gender reassignment Surgery (also referred to as transsexual Surgery, sex reassignment Surgery or intersex Surgery), including related services and supplies.
- Appliances for Temporomandibular Joint Dysfunction.
- Any related services to a non-covered service. Related services are a) services in preparation for the non-covered service; b) services in connection with providing the non-covered service; c) hospitalization



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