

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. 145461-001

Guardian Life Insurance Company of America,

Respondent.

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Issued and entered  
this 22<sup>nd</sup> day of January 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On December 18, 2014, ██████████, authorized representative of ██████████, Sr. (Petitioner), filed a request with the Director of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner has dental coverage through a group plan that is underwritten by Guardian Life Insurance Company of America (Guardian). The Director immediately notified Guardian of the external review request and asked for the information it used to make its final adverse determination. After a preliminary review of the material submitted, the Director accepted the request on December 30, 2014.

To address the medical issues in the case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation to the Director on January 13, 2015.

**II. FACTUAL BACKGROUND**

The Petitioner's dental benefits are defined in a certificate of group insurance issued by Guardian (the certificate).

On September 22, 2014, the Petitioner had ceramic crowns placed on teeth #8 and #9 (procedure code D2740). His dentist charged \$2,116.00 (\$1,058.00 for each crown).

When Guardian denied coverage, the Petitioner appealed through its internal appeals process. At the conclusion of that process Guardian maintained its denial in a final adverse determination dated December 2, 2014. The Petitioner now seeks a review of that adverse determination from the Director.

### III. ISSUE

Did Guardian correctly deny coverage for the Petitioner's crowns?

### IV. ANALYSIS

#### Petitioner's Argument

The Petitioner's external review request included this statement:

Teeth were restored due to decay around previous filling. Claim being denied saying due to "lack of decay." Please review all x-rays and clinical notes. And hopefully rectify payment for services.

The Petitioner's dentist also said in a September 22, 2014, progress note:

Patient presents in office today for crown preps. Original TX plan was for #6 thru #11. All are riddled with old broken down composite filling, all need crowns. Pt. has opted to do #8/9 at this time. . . .

The Petitioner believes the crowns were dentally necessary and therefore Guardian should cover them.

#### Respondent's Argument

In its final adverse determination, Guardian said that it denied coverage for the crowns because the "restoration is being placed due to attrition or abrasion and not due to decay or injury" and explained that the Petitioner's dental plan covers crowns "when needed due to decay or injury and when the tooth cannot be restored with a routine filling."

In a December 19, 2014, letter submitted for this external review, Guardian further explained its decision:

The dental plan provides that all covered dental services must be usual and necessary treatment for a dental condition, with proof of loss substantiated through reviews of diagnostic radiographs and other supporting materials. Reviews are performed by licensed dentists acting in a consultant capacity. Pretreatment review is recommended for proposed treatment exceeding \$300 to ensure that all parties are aware of the projected available plan benefit and associated patient liability prior

to work being performed. No pretreatment request was received prior to receipt of the claim for completed treatment.

Two separate claim reviews have been performed on the crown procedures. Based on review of the clinical information provided, in both reviews the consultants advised that the crowns are being placed due to attrition or abrasion, not due to decay or injury. According to the terms of the plan, Guardian processed denials on 10/29/2014 and 12/2/2014.

### Director's Review

The certificate covers dentally necessary crowns as "major restorative services." The coverage is described in the certificate (p. 46):

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when needed because of decay or injury,<sup>1</sup> and only when the tooth cannot be restored with amalgam or composite filling material. . . .

The certificate (p. 37) also excludes coverage for restorations and procedures performed as treatment for attrition or abrasion:

#### **Exclusions**

We will not pay for:

\* \* \*

- Any restoration, procedure, appliance or prosthetic device used solely to: (1) alter vertical dimension; (2) restore or maintain occlusion, except to the extent that this plan covers orthodontic treatment; (3) treat a condition necessitated by attrition or abrasion; or (4) splint or stabilize teeth for periodontal reasons. [Underlining added]

The question of whether the crowns on teeth #8 and #9 were dentally necessary due to decay or injury was presented to an independent review organization (IRO) for analysis and a recommendation as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO reviewer is a licensed dentist in active practice who is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

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<sup>1</sup> The certificate (p. 63) defines "injury" as all damage to a covered person's mouth due to an accident which occurred while he or she is covered by this plan, and all complications arising from that damage. But the term injury does not include damage to teeth, appliances or dental prostheses which results solely from chewing or biting food or other substances.

**Reviewer's Decision and Principal Reasons for the Decision:**

It is the determination of this reviewer that the crowns placed on teeth #8 and #9 were not dentally/medically necessary for the treatment of the enrollee's condition.

**Clinical Rationale for the Decision:**

Teeth #8 and #9 were noted as being "riddled" with old composite restorations and were in need of restoration to remove recurrent decay. The radiographs show heavily worn teeth with open contacts and worn incisal edges. There is obvious attrition of the affected teeth, however there is only minimal apparent existing restoration in tooth #8 and no clear signs of prior restoration on tooth #9. It is possible that there were smaller existing restorations on #8 and #9; however the most significant feature of these teeth is attrition/wear. Failing restorations could be simply restored to remove any decay however if the patient wished, the teeth could be repaired by crown restoration to improve appearance and improve wear resistance. As a simple restoration would properly treat the recurrent decay issues, a crown restoration would not be dentally necessary.

The enrollee's condition at the time of treatment was that of having heavily worn teeth with prior restorations that were failing. The standard of care would be to assess whether simple restorations could be provided to restore the teeth or if full coverage would be more appropriate. If simple restorations could not accomplish the necessary restoration then full coverage crowns would be indicated. When there is an option to repair the old restoration properly but also that of placing full coverage on the tooth, the patient is usually given the choice as to which route to take. Christensen states "Crowns are a legitimate and logical way to improve the appearance of teeth, provided that the patient provides proper informed consent before beginning the procedure, and that they know that dental third party payers usually will not pay for restorations that are placed only for esthetic reasons." Dental necessity would be to repair the decaying or failing restoration by the simplest means if it accomplished that goal. Optional treatment that would also be appropriate could include full coverage crowns to help in esthetics and future wear resistance. . . . [References omitted]

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the recommendation is afforded deference by the Director. In a decision to uphold or reverse an adverse determination, the Director must cite "the principal reason or reasons why the [Director] did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise, and professional judgment. In addition, the IRO's recommendation is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected in the present case, finds that the Petitioner's crowns on teeth #8 and #9 were not dentally necessary and therefore are not covered under the terms of the certificate.

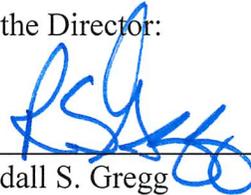
**V. ORDER**

The Director upholds Guardian's December 2, 2014, 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 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 Michigan Department of Insurance and Financial Services, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Annette E. Flood  
Director

For the Director:



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Randall S. Gregg  
Special Deputy Director