

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. 147875-001

Guardian Life Insurance Company of America,
Respondent.

Issued and entered
this 12th day of June 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On May 13, 2015, ██████████ authorized representative of ██████████ (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 underwritten by Guardian Life Insurance Company of America (Guardian). The Director notified Guardian of the external review request and asked for the information it used to make its final adverse determination. Guardian furnished the information on May 18, 2015. After a preliminary review of the material submitted, the Director accepted the request on May 20, 2015.

To address the medical issues in the case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation on June 3, 2015.

II. FACTUAL BACKGROUND

The Petitioner's dental benefits are defined in a certificate of group insurance issued by Guardian entitled "Your Group Insurance Plan Benefits" (the certificate).

On November 10, 2014, the Petitioner had a crown (core) buildup and a new crown placed on tooth #14. Guardian denied coverage for both procedures.

The Petitioner appealed the denial through Guardian's internal appeals process. At the conclusion of that process, Guardian affirmed its decision in a final adverse determination dated May 6, 2015. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did Guardian correctly deny coverage for the crown buildup and crown?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian denied coverage for the crown because "the reason for replacement is not evident" and denied coverage for the crown buildup because "the tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown."

In a letter dated May 15, 2015, submitted for this external review, Guardian further explained its denial of coverage:

Three separate claim reviews have been performed on this procedure. Based on review of the clinical information provided, in all three reviews the consultants advised that the crown restoration is a replacement restoration and reason for replacement is not evident. According to the terms of the plan Guardian issued denials on 2/2/2015, 3/19/2015 and 5/6/2015.

Petitioner's Argument

On the request for external review form, the Petitioner's authorized representative wrote:

Seeking payment for a crown & core on #14. Previous crown was 14 years old, had root canal done through crown, large percentage of porcelain fractured off & recurrent decay at margins. Sent in pre-op radiographs and apparently whomever is reviewing them has no experience in reading x-rays. Final restoration was all porcelain & is quite different on x-ray. Tooth required this excellent service & [insurance] is deny[ing] their responsibility to pay.

Earlier, the Petitioner's dentist had written to Guardian on May 5, 2015:

Attached is all the information for [the Petitioner's] claim . . . submitted for review (excluding the x-rays we have requested back from Guardian numerous times). I have attached all of the rejections from Guardian. We are sending this information to you [in] hopes to get this claim paid, before we send out for

external review. Please review all the information and have the claim paid accordingly.

Director's Review

The certificate (p. 38) describes the coverage for crowns and crown buildups:

Crowns, inlays, onlays, labial veneers, and crown build-ups are covered only when needed because of decay or injury, and only when the tooth cannot be restored with amalgam or composite filling material. Post and cores are covered only when needed due to decay or injury....

* * *

Posts and buildups – only when done in conjunction with a covered unit of crown or bridge and only when necessitated by substantial loss of natural tooth structure.

The question of whether the crown buildup and crown on tooth #14 were medically (dentally) necessary was presented to an independent review organization (IRO) for analysis 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 clinical practice. The IRO report included the following analysis and recommendation:

Reviewer's Decision and Principal Reasons for the Decision:

It is the determination of this reviewer that the crown and crown (core) build up to tooth #14 performed on November 10, 2014 were dentally necessary for the treatment of the enrollee's condition.

Clinical Rationale for the Decision:

Tooth #14 had a crown placed in the past. The existing crown suffered porcelain fracture and required replacement. Endodontic therapy was previously required and performed going through the occlusal surface of the crown and through the center of the tooth. The endodontic procedure reduced the center or dentinal core of the tooth leaving a virtual "shell" of tooth structure. The provider indicated that the buccal area of the tooth was decayed and once the old crown was removed the remaining "shell" of tooth structure required support; a core build-up was required. The buccal area of the "shell" was compromised due to recurrent caries. The enrollee required a core build-up and crown to properly restore tooth #14. "A core build-up is treatment performed for vital teeth that have very little crown structure. For this procedure, the dentist removes any decay and defective restoration and then builds a core that supports and provides more retention for the cast restoration."

During tooth preparation for a crown, the dentist determines if sufficient tooth structure is available to provide support. "Often, the teeth being restored with a fixed prosthesis have substantial loss of tooth structure due to decay, fractures, or large, deteriorated restorations. The dentist improves the retentive capability of the tooth if the tooth being restored will not retain the restoration alone." The clinical terms normally referred to regarding the shape of the preparation are die resistance form and retentive form. Many times small voids are filled in to provide a smoother surface or eliminate undercuts. These "filled-in" areas should not be considered a core build-up. When insufficient tooth structure is available to obtain resistance and retentive form, a buildup is appropriate. Previous reduction of tooth structure was performed for the existing crown, center dental core was reduced during endodontic treatment, and buccal decay further reduced tooth structure. Tooth # 14 was now a "hollow shell" and required a core build-up to properly provide resistance and retentive form for the new crown.

In summary, the documentation supports that the existing crown suffered porcelain fracture and required replacement and there was insufficient tooth structure available to obtain resistance and retentive form. A crown and core buildup was appropriate and dentally necessary for this enrollee. [Citations 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 recommendation here is based on experience, expertise, and professional judgment. Furthermore, it is not contrary to any provision of the certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected, finds that the crown and buildup on tooth #14 are dentally necessary and are therefore covered benefits.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's May 6, 2015, final adverse determination.

Guardian shall immediately cover the crown and buildup on tooth #14 and shall, within seven days, furnish the Director with proof that it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding its implementation to the Department of Insurance and Financial Services, Health Care Appeals Sections, at this toll free telephone number: (877) 999-6442.

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 Michigan 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 Department of Insurance and Financial Services, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Patrick M. McPharlin
Director

For the Director:

A handwritten signature in black ink, appearing to read 'RSG', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director