

**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. 149045-001**

**Guardian Life Insurance Company of America**  
**Respondent**

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**Issued and entered**  
**this 26<sup>th</sup> day of August 2015**  
**by Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On July 28, 2015, ██████████ (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 July 30, 2015. After a preliminary review of the material submitted, the Director accepted the request on August 4, 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 August 18, 2015.

**II. FACTUAL BACKGROUND**

On May 18, 2015, the Petitioner had a crown buildup (core) and a new crown placed on tooth #31. Guardian initially denied coverage for both procedures but, during the internal grievance process, approved coverage for the crown.

The Petitioner appealed the denial of the crown buildup through Guardian's internal appeals process. At the conclusion of that process, Guardian affirmed its

decision in a final adverse determination dated July 1, 2015. The Petitioner now seeks a review of that final adverse determination from the Director.

### III. ISSUE

Did Guardian correctly deny coverage for Petitioner's crown buildup on tooth #31?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, Guardian 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."

#### Petitioner's Argument

In a letter of appeal to Guardian dated June 13, 2015, Petitioner's dentist explained:

This letter is to request that you reconsider the denial of #31 Core/Crown due to existing crown over 10 years old.

Patient's first visit with us on October 28, 2009 was to re-cement #31. Advised patient #31 was an ill-fitting crown and decay was found under the crown due to fit and worn Occlusal as shown in picture.

#### Director's Review

The certificate (pages 79-80) covers medically necessary 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 on tooth #31 was dentally (medically) 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 practice. The IRO report included the following analysis and recommendation:

At issue in this appeal is whether the crown buildup of tooth #31 performed on 5/18/15 was medically/dentally necessary for treatment of the member's condition.

...An appeal note stated that the existing crown on this tooth was over 10 years old and was being replaced due to occlusal wear and recurrent caries. This appeal note also stated that the crown was recemented in 2009 and did not fit properly.

[T]he radiograph provided for review showed an existing crown on tooth #31 with no extensive caries visible...[T]he standard of care requires that upon removal of an existing crown, any recurrent caries would need to be removed. However...as no caries were visible on the radiograph and no records documenting recurrent caries, other than the appeal note referenced above, were provided for review to demonstrate that this tooth required a crown buildup rather than filler to replace missing tooth structure.

Pursuant to the information set forth above and available documentation...the crown buildup of tooth #31 performed on 5/18/15 was not medically/dentally necessary for treatment of the member's condition.

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 Guardian's denial of the crown buildup on tooth #31 is consistent with the terms of the certificate and the standards of dental practice as described in the IRO report.

**V. ORDER**

The Director upholds Guardian Life Insurance Company of America's July 1, 2015, 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 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:



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Randall S. Gregg  
Special Deputy Director