

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. 149404-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 14th day of September 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for a crown buildup and crown lengthening by her dental insurance carrier. On August 17, 2015, ██████████ the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of that denial 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 August 20, 2015. After a preliminary review of the material submitted, the Director accepted the request on August 24, 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 September 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 June 23, 2014, the Petitioner had a crown (core) buildup and a clinical crown lengthening performed on tooth #4. 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 August 4, 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 lengthening?

IV. ANALYSIS

Petitioner's Argument

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

Please review the need for clinical crown lengthening (D4249) - decay below the gum line was present as well as a need to reestablish biologic width for a new crown.

Respondent's Argument

In its final adverse determination, Guardian denied coverage for the services because "this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown."

In a letter dated August 20, 2015, submitted for this external review, Guardian further explained its denial of coverage:

Two separate claim reviews have been performed on the crown buildup procedure. Based on review of the clinical information provided, in both reviews the consultants advised that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for a crown. According to the terms of the plan Guardian issued denials on 6/22/2015 (as a denied benefit predetermination) and 8/4/2015 (completed service). The clinical crown lengthening procedure is considered to be inclusive of the crown procedure performed on the same date. According to the terms of the plan Guardian issued denials on 6/29/2015 and 8/4/2015.

Director's Review

Medically necessary crown lengthening and crown buildups are covered benefits (see certificate pp. 152 and 155 respectively).

The question of whether the crown buildup and crown lengthening on tooth #4 were 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 clinical practice. The IRO report included the following analysis and recommendation:

Rationale:

* * *

The results of the consultant's review indicate that this case involves a 52 year-old female who has underwent placement of a crown on tooth #4. At issue in this appeal is whether the crown buildup and clinical crown lengthening (D4249) of tooth #4 performed on 6/23/15 were medically / dentally necessary for treatment of the member's condition.

The clinical notes provided for review state that tooth #4 had an existing crown of approximately 15 years, which was being replaced due to fractured porcelain. The MAXIMUS dentist consultant noted that the preoperative radiograph of this tooth appears to show a deficient margin on the distal of the existing crown, with no recurrent caries visualized on the radiograph. Upon removal of the crown, the clinical notes state that there was recurrent decay on the mesial and lingual, but no quantification of the decay was given as to location or extent of the decay. The notation further stated that clinical crown lengthening was needed on the distal and mesial with waterlase crown lengthening performed to establish biologic width for the new crown.

The clinical notes provided for review state that the crown was being replaced due to fractured porcelain. The dentist consultant explained that the preoperative radiograph shows the existing crown to be porcelain fused to metal and this would not indicate recurrent caries to be a primary reason for crown replacement. The consultant indicated that the clinical notes give no note of decay at the crown margins, but state that recurrent decay was found on the mesial and lingual. The dental consultant explained that with what is shown to be an incidental finding of decay upon removal of the existing crown and no caries visible on the preoperative radiograph, the buildup performed is not shown to be more than a filler under the existing crown. The consultant also explained that as such, medical necessity for a crown buildup on tooth #4 was not established as there was no evidence that the tooth did not have adequate structure remaining to retain a crown.

Code D4249 indicates clinical crown lengthening, hard tissue. The MAXIMUS dental consultant explained that the code requires a reflection of a full thickness flap to access the alveolar bone and removal of bone to alter the crown root ratio and expose adequate tooth structure to retain a crown. The dental consultant also explained that as there is no notation that a full thickness flap was reflected, there was no evidence that procedure D4249 was performed in this case. The consultant indicated that the documentation provided in the clinical notes only states that crown lengthening was required, but did not give any clinical information regarding the depth of caries or remaining biologic width to substantiate the need for clinical crown lengthening. The dentist consultant also indicated that with no caries visible on the radiograph and no quantifications of the extent of tooth breakdown, it was not established that clinical crown lengthening as defined was

necessary or performed other than a brief notation in the clinical records, the medical necessity for clinical crown lengthening (D4249) was not established.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that the crown buildup and clinical crown lengthening (D4249) of tooth #4 performed on 6/23/15 were not medically/dentally necessary for treatment of the member's condition. [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, the recommendation 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 buildup and crown lengthening on tooth #4 were not medically (dentally) necessary and are therefore not covered benefits.

V. ORDER

The Director upholds Guardian Life Insurance Company of America's August 4, 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:



Randall S. Gregg
Special Deputy Director