

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

[REDACTED]

Petitioner

v

File No. 149599-001

Guardian Life Insurance Company
Respondent

Issued and entered
this 29th day of September 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 28, 2015, [REDACTED] on behalf of his patient, [REDACTED] (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, (PRIIRA) 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 notified Guardian of the external review request and asked for the information used to make its final adverse determination. Guardian submitted its response on September 2, 2015. After a preliminary review of the material submitted, the Director accepted the request on September 4, 2015.

To address the medical issues presented, the Director assigned the case to an independent medical review organization which provided its analysis and recommendation on September 15, 2015.

II. FACTUAL BACKGROUND

On May 12, 2015, the Petitioner underwent a crown buildup (also called a core buildup) in preparation for placement of a subsequent crown on tooth #30. A crown buildup is the replacement of a part or all of the crown of a tooth to provide a base for a crown. The dentist charged \$307.00 for the buildup procedure.

Guardian denied coverage for the crown buildup ruling that the procedure was not medically necessary. The Petitioner appealed the denial through Guardian's internal grievance

process. At the conclusion of that process, Guardian affirmed its decision in its final adverse determination dated July 16, 2015. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did Guardian correctly deny coverage for the Petitioner's crown buildup?

IV. ANALYSIS

In the Petitioner's request for an external review, his authorized representative/dentist wrote:

Core was completed on #30 due to recurrent decay and fractured DB₂ cusp. After removal of amalgam [and] decay, prep was deep [and] large....Please refer to enclosed intraoral photos.

In its final adverse determination, Guardian stated that it denied coverage because tooth #30 "appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown."

In a letter dated September 2, 2015, sent for this external review, Guardian also wrote:

Two separate claim reviews have been performed on this 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 6/12/2015 and 7/16/2015.

Guardian covers dentally necessary crown buildups as "major restorative services." The coverage is described on page 75 of the certificate:

Crowns, inlays, onlays, labial veneers, and crown buildups 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 #30 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 for more than 12 years who is familiar with the medical management of patients with the Petitioner's condition. The IRO reviewer's report included the following analysis and recommendation:

The core for tooth #30 performed on 5/12/15 was medically/dentally necessary for treatment of the member's condition.

* * *

[T]he radiographs and photographs provided for review show tooth #30 to have an existing amalgam filling of moderate size with what appears to be a base under this restoration and a crack observed across the occlusal surface, with recurrent decay and breakdown of the margins of the filling. An appeal note stated that the tooth had a fracture of the distobuccal cusp. Ideal preparation of a tooth for a crown would extend up to two millimeters deep into the tooth...[I]n this case, upon removal of the existing restoration, the recurrent caries would be expected to extend well beyond this depth and would compromise the distal cusps of the tooth preparation, compromising the retention of the crown due to loss of tooth structure on the facial and occlusal aspects...[T]he photographs provided confirm the presence of recurrent caries with a high likelihood that the preparation approached within 2 mm of the pulp radiographically upon removal of the caries. The literature substantiates that buildups are needed when there is significant loss of tooth structure due to decay or fracture, which was confirmed by the submitted radiograph and photograph in this case...[W]ith the caries present in this case, the loss of tooth structure would have been such that crown retention would be compromised and therefore, medical necessity is established for the core (crown) buildup. [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. See 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 crown buildup on tooth #30 was medically/dentally necessary and is, for that reason, a covered benefit.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's July 16, 2015 final adverse determination. Guardian shall immediately provide coverage for the Petitioner's crown buildup on tooth #30. See MCL 550.1911(17). Guardian shall, within seven days of providing coverage, 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 Section, toll free at 877-999-6442.

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 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