

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. 152180-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 18th day of April 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 17, 2016, ██████████, DDS, authorized representative of her patient ██████████ (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 used to make its final adverse determination. Guardian furnished the information on March 23, 2016. After a preliminary review of the material submitted, the Director accepted the request on March 24, 2016.

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 April 7, 2016.

II. FACTUAL BACKGROUND

On November 2, 2015, the Petitioner had a crown placed on tooth #19. Guardian denied coverage for the procedure. 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 issued January 14, 2016. The Petitioner now seeks the Director's review of that final adverse determination.

III. ISSUE

Did Guardian correctly deny coverage for the crown on tooth #19?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian stated that it denied coverage because the tooth "does not appear to have decay or injury."

Petitioner's Argument

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

Tooth #19 was denied, [Patient] had existing OB caries. [The Petitioner] was also seen by an endodontist. The diagnosis was mesiodistal crackline. Tooth #19 recommended for crown for system resolution. Seeking payment for necessary treatment on patient.

Director's Review

The Guardian policy (page 87) provides coverage for crowns as "major restorative services" when certain conditions are present:

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....

The question of whether the crown on tooth #19 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 and is in active clinical practice. The IRO report included the following analysis and recommendation:

[T]he minimal history provided for review includes a notation to a referral to an endodontist, where a diagnosis was made of reversible pulpitis and a mesiodistal crack line with a recommendation for a crown....[T]he preoperative radiograph provided for review did not detail extensive caries. Cracks in teeth are common occurrences, which can be treated with conservative care through bonded restorations to restore the crack, which is shown to have favorable outcomes.... [A] diagnosis of cracked tooth syndrome requires symptoms of pain on biting stimulus, which is not documented in this member's case....[C]racked tooth syndrome is typically treated with an attempt at conservative care with

consideration of a crown if conservative care was not effective...[W]ith no notation of symptoms requiring a crown, no demonstrable caries, no history of a large restoration or cuspal fractures present and no progress notes describing symptoms, the medical necessity for a crown for tooth #19 has not been established in this case.

Pursuant to the information set forth above and available documentation...the crown that the member received for tooth #19 was not medically/dentally necessary treatment of his condition. (Christensen GJ. When is a full-crown restoration indicated? JADA. 2007;138(1):101-3.)

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 is based on experience, expertise, and professional judgment. The Director, discerning no reason why the IRO's recommendation should be rejected, finds that the crown on tooth #19 was not dentally necessary and is therefore not a covered benefit.

V. ORDER

The Director upholds Guardian Life Insurance Company of America's January 14, 2016, 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