

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. 153289-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 18th day of May 2016
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for the placement of a crown by her dental insurer, Guardian Life Insurance Company of America (Guardian).

On April 22, 2016, Frank P. Ruffino, DDS, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner has dental coverage through a group plan that is underwritten by Guardian. The Director immediately 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 April 28, 2016. After a preliminary review of the material submitted, the Director accepted the request on April 29, 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 May 10, 2016.

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 December 3, 2015, the Petitioner had a crown placed on tooth #3 (procedure code D2740). 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 dated April 1, 2016. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did Guardian correctly deny coverage for the crown on tooth #3?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian stated:

On 3/11/16 your grievance for D2740 [crown] performed on 12/3//15 was received.

Coverage for these services were denied.

For the following teeth and/or quadrants: 03

- The restoration is a replacement restoration and the reason for the replacement is not evident.

Petitioner's Argument

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

[The Petitioner] presented with an old porcelain fused to metal crown, originally done on 4/15/2010. There was deep lingual and buccal cervical caries as well. The tooth did have a root canal done prior to becoming a patient in our office in 2008, therefore [the Petitioner] could not feel any problems from the current decay. We would like Guardian to cover their portion of the treatment completed. The claim was submitted in good faith with all proper documentation and x-rays.

Director's Review

Crowns are covered as "major restorative services" when they are dentally necessary. The benefit is described in the certificate (p. 71):

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 #3 was 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 licensed in general dentistry; a member of the American Dental Association; a member of the American Academy of Craniofacial Pain; and is in active practice. The IRO report included the following analysis and recommendation:

Reviewer's Decision and Principal Reasons for the Decision:

Was the crown provided on tooth #3 performed on December 3, 2015 medically (dentally) necessary for the treatment of the enrollee's condition?

Yes. It is the determination of this reviewer that the crown on tooth #3 was medically necessary for the treatment of the enrollee's condition.

Clinical Rationale for the Decision:

It is common knowledge that any dental restoration that is compromised with recurrent decay must be treated. The standard of care is to remove the decay and repair or replace the restoration. When the restoration is an existing crown, the standard of care is replacement.

Many publications regarding radiology suggest that dental decay can be so subtle or slight, or blocked by hard tooth structure that determination by radiographic evidence alone could be inaccurate. Although the radiographs supplied for this case in the submitted documentation do not display obvious caries, buccal or lingual caries can be evident clinically and not fully visible on radiographs. Radiographs cannot always be used as the only determination for caries that may be hidden under existing restorations. The enrollee's lingual decay would be superimposed over harder, deeper, normal dentinal tooth structure since this is the widest part of the tooth.

The enrollee presented for treatment with pain between tooth #2 and #3. Her condition was documented as lingual decay on tooth #3. The Patient Notes Master on November 16, 2015 show that Dr. [REDACTED] and [REDACTED] verified entries which specifically identified tooth #3 as having lingual decay and needing a new crown. Since there was an existing crown on this tooth, the standard of care is to replace the crown. Two individuals documented existing caries on the lingual of tooth #3; therefore, the crown on this tooth was properly replaced.

Based on the documentation submitted for review and current standard of care, the crown performed on December 3, 2015 on tooth #3 was dentally necessary for treatment of the enrollee'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 the crown on tooth #3 was dentally necessary and is therefore a covered benefit.

V. ORDER

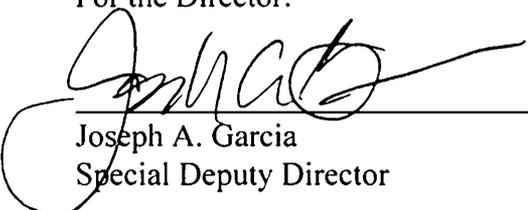
The Director reverses Guardian Life Insurance Company of America's April 1, 2016, final adverse determination. Guardian shall immediately cover the Petitioner's December 3, 2015, crown and shall, within seven days of providing coverage, furnish the Director with proof it implemented this order. See MCL 550.1911(17).

To enforce this order, the Petitioner may report any complaint regarding the implementation to the Department of Insurance and Financial Services, Health Care Appeals Section, 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:



Joseph A. Garcia
Special Deputy Director