

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. 153352-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 19th day of May 2016
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 21, 2016, ██████████, authorized representative of ██████████ (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 April 27, 2016. After a preliminary review of the material submitted, the Director accepted the request on April 28, 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 12, 2016.

II. FACTUAL BACKGROUND

On November 2, 2015, the Petitioner had a crown build up and a porcelain crown placed on tooth #15. 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 March 25, 2016. The Petitioner now seeks the Director's review of that final adverse determination.

III. ISSUE

Did Guardian correctly deny coverage for the crown build up and crown on tooth #15?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian stated that it had denied coverage for the crown buildup and crown because the tooth "appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown" and because the tooth "does not appear to have decay or injury."

Petitioner's Argument

In the external review request the Petitioner's dentist wrote:

[Patient] complained of uncomfortable food trapped between #14 [and] #15. 5 mm pocket present with bleeding. We have been treating patient since 2003 and permanent crown [on] #15 was present then. [Patient] thinks it could be more than 20 years old. Sectioned off old crown and replaced with new...crown with very tight interproximal contact. Sealed area well and used [illegible] to treat deep pocket. I saw patient on 3/1/16 for a perio maintenance and she feels 100% better in that area. Little food gets trapped anymore and perio pockets are 3mm with no bleeding.

Director's Review

The question of whether the crown buildup and crown on tooth #15 were medically (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 a dentist who has been in practice for more than 12 years. The IRO report included the following analysis:

The appeal request stated that the member presented with an existing crown on tooth #15, which was over 15 years old, that she had a food trap between teeth #14 and 15, which was uncomfortable, and that she had 5 mm periodontal probe depths in the area with bleeding on probing. Upon completion of the new crown, it was reported that the periodontal condition improved...[T]he clinical notes and information submitted in this case do not show breakdown of the existing crown and state that the reason for replacement was the existence of a food trap...[T]he parameters of care for slight loss of periodontal support include localized periodontal therapy and improvement in care. (American Academy of Periodontology. Parameter on chronic periodontitis with slight to moderate loss of periodontal support. *J Periodontol.* 2000;71:853-5.)...[A]s there was no

breakdown of the existing crown or contention of decay, the requested services were for treatment of a localized periodontal inflammation....[A]s there was no breakdown of the existing crown making it unserviceable, the medical necessity for crown replacement was not established.

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. 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 buildup and crown on tooth #15 were not medically/dentally necessary and are therefore not covered benefits.

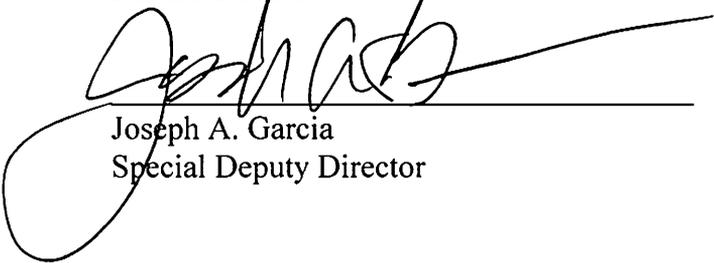
V. ORDER

The Director upholds Guardian Life Insurance Company of America's March 25, 2016, final adverse determination. Guardian is not required to provide coverage for the Petitioner's crown build up and crown on tooth #15.

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