

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. 154400-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 4th day of August 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 30, 2016, ██████████ DDS, 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 July 1, 2016. After a preliminary review of the material submitted, the Director accepted the request on July 8, 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 July 22, 2016.

II. FACTUAL BACKGROUND

On March 16, 2016, the Petitioner had a replacement crown on tooth #30. 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 May 27, 2016. The Petitioner now seeks the Director's review of that final adverse determination.

III. ISSUE

Did Guardian correctly deny coverage for a replacement crown on tooth #30?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian stated that "the reason for replacement of this crown is not evident."

Petitioner's Argument

In the Request for External Review the Petitioner's dentist stated:

It is our opinion the service (replacement crown) should be a covered service. Preexisting crown was missing porcelain in the distal contact and there was new decay visible on distal margin as well as a tactile stick clinically.

Director's Review

The dental plan in this case provides that all covered dental services must be usual and necessary treatment for a dental condition, with proof of loss substantiated through reviews of diagnostic radiographs and other supporting materials.

The question of whether the replacement crown on tooth #30 was 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 licensed in general dentistry and is in active practice. The IRO report included the following analysis and recommendation:

The standard of care for the treatment of the condition in this clinical scenario is replacement of the existing crown. The marginal ridge and the contact point with adjacent teeth is of critical importance for mastication and the health of the gingival tissue.

The missing porcelain on tooth #30 in this case represented the distal marginal ridge. This condition compromises the contact point with tooth #31, creating a food entrapment area. In addition, the provider probed and found a softening at the root surface and distal margin of the crown.

The radiograph presented for review displays missing porcelain at the distal surface and a radiolucent area at the distal margin. Per the records submitted for review, the provider documented this condition in his clinical notes as well as in his review request. Therefore, for the reasons noted above, the replacement crown on tooth #30 was medically necessary for this enrollee.

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 replacement crown on tooth #30 was medically (dentally) necessary and is therefore a covered benefit.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's May 27, 2016 final adverse determination. Guardian shall immediately provide coverage for the Petitioner's replacement crown on tooth #30 and shall within seven days of providing coverage, furnish the Director with proof it has implemented this order. See MCL 550.19911(17).

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, at this toll free 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:

A handwritten signature in black ink, appearing to read 'R. S. Gregg', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director