

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. 154644-001

Guardian Life Insurance Company of America
Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On July 19, 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. The benefits are defined in a certificate of group insurance issued by Guardian entitled *Your Group Insurance Plan Benefits*. 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 22, 2016. After a preliminary review of the material submitted, the Director accepted the request on July 26, 2016.

The Director assigned an independent medical review organization to address the medical issues in the case. The organization's analysis and recommendation was submitted on August 9, 2016.

II. FACTUAL BACKGROUND

On February 23, 2016, the Petitioner had a porcelain crown placed on tooth #10. Guardian denied coverage for this procedure and concluded that the Petitioner's condition could be corrected with a composite filling.

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 May 11, 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 #10?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian wrote:

This tooth does not appear to have decay or injury that would require a crown, inlay, onlay, or veneer. An alternate benefit of D2330 has been considered. The dental plan only covers crowns, inlays, onlays or veneers when needed due to decay or injury and when the tooth cannot be restored with a routine filling.

Petitioner's Argument

In a letter included with the Request for External Review the Petitioner's dentist wrote:

Patient had a root canal done on the upper front tooth #10. He had an abscess and a marginal ridge necessitating a root canal.

After the root canal, this tooth couldn't be restored with a routine filling because it had a root canal and fracture. A full coverage crown was necessary to protect the existing tooth structure.

Director's Review

The certificate (page 60) provides coverage for crowns as "Major Restorative Services" when they are dentally necessary:

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 certificate (page 44) includes an alternate treatment provision, which states:

If more than one type of service can be used to treat a dental

condition, we have the right to base benefits on the least expensive service which is within the range of professionally accepted standards of dental practice as determined by us. For example, in the case of bilateral multiple adjacent teeth, or multiple missing teeth in both quadrants of an arch, the benefit will be based on a removable partial denture. In the case of a composite filling on a posterior tooth, the benefit will be based on the corresponding amalgam filling benefit.

Guardian denied coverage for the crown on tooth #10 on the basis it determined it was not medically necessary and an alternate benefit of a 1-surface composite filling was the appropriate treatment.

The necessity of a porcelain crown on tooth #10 was evaluated by an independent review organization (IRO) 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 ten years who is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis:

The member underwent root canal treatment for tooth #10 ... [A]ccording to the information provided for review, this tooth had a horizontal fracture line running from the root canal access opening to the mesial marginal ridge. Dental literature includes references that with a minimal access opening, an anterior tooth, such as this member's tooth, having had a root canal treatment can be adequately restored with a bonded restoration if the tooth shows no fracture of the marginal ridge. (Cheung W, et al. A review of the management of endodontically treated teeth: Post, core and the final restoration. *JADA* 2005;136(5):611-9. Monnacci F, et al. Three-year clinical comparison of survival of endodontically treated teeth restored with either full cast coverage or direct composite restoration. *J Prosth Dent.* 2002;88:297-301 ... [T]hese studies show that with extensive breakdown or marginal ridge fractures, the prognosis worsens. A study showed that in cases of extensive breakdowns or marginal ridge fractures, teeth have up to 6 times greater frequency of fracture. (Aquilino SA, et al. Relationship between crown placement and the survival of endodontically treated teeth. *J Prosth Dent.* 2002;87:256-63.) ... [I]deal preparation would extend up to 2 millimeters deep in the tooth ... [T]his study shows the necessity for a crown on an endodontically treated tooth with a fractured marginal ridge ... [G]iven the endodontic access and fracture of tooth #10 in this case, a crown was medically/dentally necessary.

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 porcelain crown on tooth #10 was medically (dentally) necessary and is therefore a covered benefit.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's final adverse determination. Guardian shall immediately provide coverage for the Petitioner's crown on tooth #10. See MCL 550.1911(17). Further, Guardian shall, within seven days of providing coverage, furnish the Director with proof 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, 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



Randall S. Gregg
Special Deputy Director