STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

Guardian Life Insurance Company of America

Respondent

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

ORDER

I. PROCEDURAL BACKGROUND

On October 18, 2016, [redacted], dentist and authorized representative [redacted] (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 it used to make its final adverse determination. Guardian furnished the information on October 21, 2016. After a preliminary review of the material submitted, the Director accepted the request on October 25, 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 November 8, 2016.

II. FACTUAL BACKGROUND

On January 27, 2016, the Petitioner sought treatment from her dentist for pain in tooth #30. After removing the decay, it was determined the tooth needed a large mesial, lingual, occlusal restoration. However, to make sure the tooth was asymptomatic, a sedative filling was placed.

On May 26, 2016, after ensuring the tooth did not need endodontic therapy, Petitioner's dentist placed a crown on tooth #30. Guardian denied coverage.
The Petitioner appealed the denial through Guardian’s internal appeals process. At the conclusion of that process, in a final adverse determination dated September 3, 2016, Guardian maintained its denial of coverage for the crown but approved coverage for an alternate treatment of a two-surface amalgam filling. The Petitioner now seeks the Director’s review of Guardian’s denial of coverage for the crown.

III. ISSUE

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

IV. ANALYSIS

Respondent’s Argument

In its final adverse determination, Guardian stated:

This tooth does not appear to have decay or injury that would require a crown, inlay, onlay or veneer. An alternative benefit of D2150 has been considered. The dental plan only covers crowns, inlays, onlays and 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 attached to the request for external review, the Petitioner’s dentist wrote:

[Petitioner] presented to our office January 27, 2016 with pain on the lower right. After examination of tooth #30 I noted slight percussion sensitivity and generalized ache to area. I was unable to determine at that date if it was an irreversible pulpitosis or a reversible one. A sedative filling was placed after removing the prior amalgam and decay was removed under the old filling. At this point a large mesial, lingual, lingual and occlusal portion of the tooth was gone but we decided to hold off on a crown until we made sure the tooth became asymptomatic. Patient was given a referral to an endodontist to take with her in case the pain did not calm down in the next couple of days or at least be calming down in the right direction versus getting worse.

A follow up call was made to the patient a week later and she reported that her symptoms were gone. We decided to wait some time to make sure the tooth remained calm and then we would proceed with a crown to restore contour and strength to the tooth. With 2/3 of the tooth structure gone including the medial lingual cusp, the sedative filling would not be a strong enough long term solution.

A crown was indeed fabricated at our office. The crown was inserted and the patient is doing well. I am not sure what you could possibly want in addition to your client getting good, thoughtful conservative care? We could have sent her right to the endodontist with percussion sensitivity which would have yielded her a devital, less strong tooth and additional costs. We could have not cared at all and jumped into a crown. We didn’t. We took the proper steps and care to do the right thing for our patient and now she is being denied her insurance benefits for her care. I think you should reverse your decision and keep your client, and our patient’s interest at heart.
Payment for an amalgam on this tooth is a ridiculous idea. That does not even cover the lab fee for the necessary work. Your client deserves the care that her tooth needs not a quick patch when she has coverage for dental services that are necessary.

**Director's Review**

The Guardian benefit certificate (page 99) 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. Facings on dental prostheses for teeth posterior to the second bicuspid are not covered. Post and cores are covered only when needed due to decay or injury. Allowance includes insulating bases, temporary or provisional restorations and associated gingival involvement. Limited to permanent teeth only.

The benefit certificate (page 83) also 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.

The question of whether the crown on tooth #30 was dentally (medically) necessary was presented to an independent review organization (IRO) for analysis as required by section 11(7) of the Patient's Right to Independent Review Act, MCL 550.1911(7).

The IRO reviewer is a licensed dentist in active practice for more than eleven years and is familiar with the medical management of patients with the Petitioner’s condition. The IRO report included the following analysis and recommendation:

The radiographs provided for review show tooth #30 to have an existing one surface occlusal restoration with no additional caries visualized. The narrative submitted for review stated that the member presented with pain on the lower right on tooth #30 with a general ache and slight percussion sensitivity. Testing was unable to discern between reversible and irreversible pulpitis. The information submitted in the case file stated that the restoration was removed and a provisional restoration was placed to evaluate response. With no symptoms after 6 months, the decision was made to place a crown.

The radiographs provided for review do not document caries....[A] non-descript ache and slight percussion sensitivity can often be attributed to dental caries, causing an irreversible pulpitis, as the treating doctor noted in the narrative provided....[U]pon removal of the defective restoration and the caries, the member’s symptoms resolved, demonstrating causing....[T]he narrative stated that the provisional restoration was in place for a period of approximately six months, which would tend to show that a restoration on the tooth would have been sufficient to address the member's needs....[A]s
the radiograph did not demonstrate excessive recurrent under the moderate-sized one
surface restoration and the provisional restoration placed was shown to address the
member's symptoms, there was no evidence provided that the tooth could not have been
restored with a conservative restoration.

Pursuant to the information set forth above and available documentation...a crown on
tooth #30 was not medically/dentally necessary for treatment of the member's condition.
(Overton DR. Efficacy of bonded and nonbonded amalgam in the treatment of teeth with
incomplete fractures. JADA. 2000 Apr;131(4):469-78.)

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(18)(b).

The IRO’s recommendation is based on experience, expertise, and professional judgment.
Furthermore, it is not contrary to any provision of the benefit certificate. MCL 550.1911(17). The Director,
discerning no reason why the IRO’s recommendation should be rejected finds that a crown on tooth #30
was not medically/dentally necessary, and; therefore, is not a covered benefit.

V. ORDER

The Director upholds Guardian Life Insurance Company of America's September 3, 2016 final
adverse determination. Guardian is not required to provide coverage for a crown on the Petitioner's tooth
#30.

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