

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. 153803-001

Sun Life Assurance Company of Canada,

Respondent.

Issued and entered
this 27th day of June 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for certain dental services by her dental insurer, Sun Life Assurance Company of Canada (Sun Life).

On May 23, 2016, the 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 Sun Life. The Director immediately notified Sun Life of the external review request and asked for the information used to make its final adverse determination. Sun Life responded on May 26, 2016, and after a preliminary review of the materials submitted the Director accepted the Petitioner's request on May 31, 2016.

To address the medical issues in the case, the Director assigned the matter to an independent medical review organization which provided its analysis and recommendation to the Director on June 16, 2016.

II. FACTUAL BACKGROUND

The Petitioner's dental benefits are described in a certificate of coverage issued by Sun Life (the certificate).

On February 8, 2016, the Petitioner had periodontal scaling and root planing on

teeth #2, #15, #18, and #30 (procedure code D4342, "periodontal scaling and root planing, one to three teeth per quadrant"). The provider's charge was \$760.00. Sun Life denied coverage, saying the Petitioner did not meet its criteria for coverage.

The Petitioner appealed the denial through Sun Life's internal appeals process. At the conclusion of that process, Sun Life affirmed its decision in a final adverse determination dated May 2, 2016. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

Did Sun Life correctly deny coverage for the Petitioner's periodontal scaling?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination to the Petitioner, Sun Life wrote:

An adverse determination has been made on a claim that was submitted for dental services. Before the adverse decision was issued, the case was independently reviewed by a Dentist Advisor, who is a licensed dentist, to assist with coverage determinations. The Dentist Advisor reviewed the pertinent dental information, along with the individual circumstances, and determined that payment could not be made.

* * *

Based on the information provided, it is our Dentist Advisor's opinion that there appears to be no evidence of loss of attachment due to periodontal disease. Periodontal scaling and root planing is a benefit only when there is evidence on the x-rays of bone loss due to periodontal disease. The information we received does not meet our criteria for a benefit. Therefore, our initial denial for the limited sites of scaling and root planing on Tooth Numbers 2, 15, 18, and 30 has been upheld.

Petitioner's Argument

In a letter dated May 14, 2016, submitted with her external review request, the Petitioner wrote:

This dental procedure has been ordered by my dentist as necessary, and backed up by images, x-rays from two physicians, and detailed notes. Sun Life Financial has denied the claim and two subsequent appeals.

We are making a final attempt through this process to obtain fair treatment for this necessary, physician-ordered procedure. The attached information will prove that there is:

1. bleeding/heavy bleeding gum tissue (all the red circles are areas of bleeding/heavy bleeding gum tissue)
2. X-rays from current and previous dentist prove bone loss
3. notes that doctor made that shows 4/5/6 mm pockets with bleeding and bone loss
4. when patient returned for the treatment she had moderate / heavy bleeding
5. the proof is in the x-rays, periodontal charting, intra oral pictures and the notes that were done

Director's Review

The certificate (p. 19) covers scaling and root planing as a "type II" dental service. The procedure is "limited to one (1) time(s) per quadrant of the mouth in any 24 consecutive month period."

The certificate (p. 23) also excludes coverage for procedures that are not dentally necessary. The certificate (p. 15) recommends a "pre-determination of benefits" for extensive treatments such as periodontal services. Under a pre-determination, Sun Life will notify the dentist of the benefits payable for a treatment plan that is submitted before treatment begins. There is no indication in the record that the Petitioner's dentist requested a pre-determination of benefits for the periodontal services.

The question of whether the periodontal scaling and root planing the Petitioner received were medically 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 licensed dentist in active practice and is familiar with the medical management of patients with the member's condition. The IRO report included the following analysis and recommendation:

Reviewer's Decision and Principal Reasons for the Decision:

Is the periodontal scaling the enrollee received on February 8, 2016 medically (dentally) necessary for the treatment of her condition?

No. It is the determination of this reviewer that the periodontal scaling on February 8, 2016 was not medically (dentally) necessary for the treatment of the enrollee's condition.

Clinical Rationale for the Decision:

* * *

This enrollee's condition is one of gingival inflammation with accompanying swelling of the gingival tissues and pocket formation. The x-rays in the documentation submitted for review do not show any appreciable bone loss interproximally on any of the posterior quadrants. The code being utilized is for scaling and root planing of one (1) to three (3) teeth in a quadrant and it was not noted which teeth were to be treated. In order to be able to perform scaling and root planing, there needs to be loss of attachment present such that the root surface has become accessible to be instrumented. The x-rays presented do not show any significant loss in the attachment level such that root surfaces would be available to be instrumented.

Per the submitted documentation, the intra-oral photographs show only edematous gingiva and do not show gingival recession on the anterior teeth, which appears on the charting. The photographs also do not show any recession on the posterior teeth, only some edematous tissue. The fact that pockets exist does not imply that there has been attachment loss, only that there is a probable space at the gingival margin. The diagnosis would be gingivitis given the submitted documentation, not periodontitis. While it appears that the enrollee requires some level of treatment for gingivitis, without clear loss of attachment on the supplied records, the requested procedure codes are not appropriate. Therefore, based on the documentation submitted for review and medical literature, the periodontal scaling on February 8, 2016 was not medically necessary for this enrollee's condition.

Recommendation:

It is the recommendation of this reviewer that the denial issued by Sun Life Assurance Company of Canada for the periodontal scaling on February 8, 2016 be upheld.

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 Petitioner's certificate of coverage. MCL 550.1911(15). The Director, discerning no reason why the IRO's recommendation should be rejected, accepts the IRO report and finds that the periodontal scaling the Petitioner received on February 8, 2015, was not medically necessary and is therefore not a covered benefit under the terms of the certificate.

V. ORDER

The Director upholds Sun Life Insurance Company of Canada's final adverse determination of May 2, 2016.

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 'RSG', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director