

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
001

File No. 103798-

Petitioner

v

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 12TH day of August 2009
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On June 5, 2009, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation, under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on June 12, 2009.

The Commissioner notified Guardian Life Insurance Company of America (Guardian) of the external review and requested the information used in making its adverse determination.

Because this case involves medical issues, the Commissioner assigned it to an independent review organization which provided its analysis and recommendation to the Commissioner on June 26, 2009.

II
FACTUAL BACKGROUND

The Petitioner has group dental care coverage with Guardian. His dentist, XXXXX, treated

Petitioner on November 24, 2008. Treatment included evaluation, radiographs, scaling and root planing of several of Petitioner's teeth. Guardian denied coverage for some of these services. The Petitioner appealed through Guardian's internal grievance process but Guardian maintained its denial and issued a final adverse determination dated May 13, 2009.

III ISSUE

Is Guardian required to provide coverage for all the services provided to Petitioner on November 24, 2008?

IV ANALYSIS

Guardian explained its coverage decision in its May 13, 2009, final adverse determination: "On 5/13/2009 your claim for the root planing and scaling on 11/24/2008 on all four quadrants was received. Coverage for these services were allowed with an alternative benefit of a partial quadrant of scaling on all four quadrants. [sic]"

The Petitioner believes that Guardian should pay for the full amount of the treatment he received that day. He would like Guardian to pay the remainder of his claim -- \$265.60.

Because this appeal involves the medical necessity of the dental services Petitioner received on November 24, 2008 the records of Petitioner's dental services were reviewed by an independent review organization (IRO). The records were reviewed, and a recommendation prepared, by a licensed dentist in active practice who is a fellow of the American College of Healthcare Executives. The reviewer is certified by the American Board of Quality Assurance and Utilization and is a certified Dental Consultant and Fraud Examiner.

The IRO report includes this analysis and recommendation:

The radiographs submitted for this review exhibit bone loss only in the areas of teeth #22, #23, #24, #25, #26, and #27, which precludes scaling and root planing in areas of the dentition other than teeth #22, #23, #24, #25, #26, and #27.

Scaling and root planing for four (4) quadrants on November 24,

2008, was not medically necessary. The code for four (4) quadrant scaling and root planing (D4341) should not be applied. The appropriate code for the scaling and root planing is D4342 for scaling of teeth #22, #23, #24, #25, #26, and #27. This represents three (3) teeth in each of two (2) separate quadrants.

Benefiting D4342 for each of the two (2) quadrants does not appear to be "alternate "treatment" or "alternate benefit", but rather constitutes appropriate treatment and coding of that treatment.

* * *

It is the recommendation of this reviewer that the denial issued by Guardian Life Insurance Company of America for the root planing and scaling rendered November 24, 2008 on all (four) quadrants be upheld.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case. Therefore, the Commissioner accepts the conclusion of the IRO reviewer and finds that Guardian correctly processed Petitioner's claim for dental care rendered on November 24, 2008.

**V
ORDER**

The Commissioner upholds Guardian Life Insurance Company of America's final adverse determination of May 13, 2009.

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 sixty days from the date of this Order in the circuit court for the 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 Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.