

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

Petitioner

File No. 114470-

001

v

Guardian Life Insurance Company
Respondent

Issued and entered
this 17th day of February 2011
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On July 28, 2010, XXXXX, DDS, authorized representative of 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 notified Guardian Life Insurance Company (Guardian) of the external review and requested the information used in making its adverse determination. The Commissioner received Guardian's response on July 29, 2010. The Commissioner reviewed the information received from both parties and accepted the request on August 4, 2010.

The case involves medical issues so the Commissioner assigned the matter to an independent review organization, which completed its review and sent its recommendation to the Commissioner on August 18, 2010.¹

¹ On January 5, 2011, the independent review organization sent a revised recommendation with a minor correction that did not change the outcome.

II FACTUAL BACKGROUND

The Petitioner is covered under a group dental plan underwritten by Guardian. His benefits are defined in the certificate of coverage (the certificate).

On March 18, 2010, the Petitioner's dentist performed a crown buildup and placed a crown on tooth #2. Guardian initially denied coverage for both the crown buildup and the crown. Guardian subsequently covered the crown but denied coverage for the crown buildup on the basis it was not necessary.

The Petitioner appealed Guardian's denial of coverage for the crown buildup procedure through its internal grievance process. Guardian upheld its denial and issued a final adverse determination dated June 25, 2010.

III ISSUE

Did Guardian correctly deny coverage for the Petitioner's crown buildup?

IV ANALYSIS

Petitioner's Argument

In a July 8, 2010, letter to Guardian, XXXXX, DDS, explained the reasons for the crown buildup:

[The Petitioner] presented to our office for #2 with failing and cracked margins around the existing MOL amalgam. Our records show that this filling on #2 was placed before 1986. Keep in mind that #2 is an abutment to an existing removable partial denture. Upon removal of the old amalgam and excavating the recurrent decay, the undermined ML cusp of tooth #2 fractured which constituted a significant tooth loss of over 60% of the tooth structure. A crown was necessary to return the tooth to proper form and function especially knowing that #2 is a partial abutment.

Respondent's Argument

In its final adverse determination, Guardian told the Petitioner:

On 6/11/10 your claim for the build up on tooth-02...was received. Coverage for these services was denied. A licensed dentist has reviewed the clinical information submitted and determined that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown.

The certificate (p. 17) says, "To be covered by this plan, a service must be: (a) necessary...." Guardian maintains that the crown buildup was unnecessary and therefore is not a covered benefit.

Commissioner's Review

Guardian provides coverage for dental services when they meet the criteria of its certificate.

The certificate (page 43), under "Major Restorative Services," says:

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. ...

* * *

Posts and buildups - only when done in conjunction with a covered unit of crown or bridge and only when necessitated by substantial loss of natural tooth structure.

The question of whether the crown buildup was necessary was presented to an independent review organization (IRO) for review. The IRO dental reviewer assigned to this case has been in practice for more than 15 years. The IRO report said:

The MAXIMUS dentist consultant noted that loss of additional tooth structure as described by the [Petitioner's] treating dentist and the fact that the tooth in question was an abutment for a partial denture, made a crown the appropriate treatment for tooth #2. However, the MAXIMUS dentist consultant noted that the x-ray provided for review is 2 years old. The MAXIMUS dentist consultant explained that there is nothing evident on this x-ray to suggest that there was recurrent decay under the old restoration that would have necessitated removal of the restoration and a build-up prior to placement of the crown. The MAXIMUS dentist consultant also explained that there appears to have been sufficient structure to retain a crown on tooth #2. The MAXIMUS dentist consultant indicated that there was no evidence submitted for review of a significant change in the member's condition since the prior x-rays.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that the build-up for tooth #2 was not medically necessary for treatment of the [Petitioner's] condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner accepts the IRO reviewer's conclusion and finds that Guardian's denial of the crown buildup was appropriate under the terms of the certificate.

V
ORDER

The Commissioner upholds Guardian Life Insurance Company's June 25, 2010, final adverse determination. Guardian is not required to cover the crown build up provided on March 18, 2010.

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.

Ken Ross
Commissioner