

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. 114471-001

v

Guardian Life Insurance Company
Respondent

Issued and entered
this 18th day of March 2011
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On July 28, 2010, XXXXX, 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 (PRIRA), MCL 550.1901 *et seq.* The review concerns a dental claim filed by Mr. XXXXX who receives dental benefits under a group plan issued to his wife's employer. The plan is underwritten by Guardian Life Insurance Company (Guardian).

The Commissioner notified Guardian of the external review and requested the information used in making its adverse determination. The Office of Financial and Insurance Regulation received the information from Guardian on August 4, 2010, and accepted the request for external review.

The case involves medical issues so the Commissioner assigned the matter to an independent review organization, which provided its report to the Commissioner on

August 18, 2010.

II FACTUAL BACKGROUND

On March 29, 2010, Petitioner received dental care which included a core build-up, pins, and a crown on tooth #30. Guardian initially denied coverage for both procedures, but later provided coverage for the crown. Petitioner appealed Guardian's denial of coverage for the core. Guardian upheld its denial and issued a final adverse determination on June 28, 2010.

III ISSUE

Did Guardian properly deny coverage for the core under the terms of the certificate of coverage?

IV ANALYSIS

Petitioner's Argument

Petitioner's dentist believes the core would help extend the life of the tooth, because tooth #30 has experienced recurrent decay. The dentist expressed confidence that the core would allow the tooth to last more than five years and, if it does not, he has agreed to perform replacement at no cost to Petitioner.

Respondent's Argument

In its final adverse determination dated June 28, 2010, Guardian gave the following rationale to support the denial of the claim for the core, stating:

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.

Guardian maintains that its decision to deny coverage for the core was in compliance with the terms of the certificate.

Commissioner's Review

Guardian provides coverage for dental care which meets the criteria in its certificate of coverage: a service must be necessary, appropriate for a given condition, and included in Guardian's list of covered dental services. The list of covered services is found on pages 93 through 101 of Petitioner's policy. The relevant portion of the list is reprinted below from page 99:

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. 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 question of whether the core Petitioner received was dentally necessary was presented to an independent medical review organization (IRO). The IRO reviewer assigned to this case is licensed in general dentistry and is in active practice. The reviewer is a member of the American Dental Association and the American Academy of Craniofacial Pain.

The IRO reviewer reported the following facts and findings:

A copy of a pre-operative radiographs dated April 7, 2009, January 20, 2010 and a copy of a post-operative radiograph dated March 29, 2010, May 11, 2010 and several undated photos were presented for review. Although poor quality, it is still apparent that there is no appreciable difference in the amount of tooth structure underlying each crown on side-by-side comparison.

A core buildup is required when a substantial amount of tooth structure has been lost. Filling in areas of decay or replacing old restorations with base material does not qualify as providing a core buildup. The radiographs submitted for review do not demonstrate sufficient tooth loss to claim that a core buildup was required.

In no way does the pre-operative radiograph display "very little crown structure." It appears to this reviewer that there is the same amount of tooth structure in each radiograph.

The IRO reviewer concluded the core buildup procedure that was performed on Petitioner's tooth #30 was not dentally necessary for treatment of 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 finds that Guardian’s denial of coverage was consistent with the terms of the certificate.

V
ORDER

The Commissioner upholds Guardian Life Insurance Company’s June 28, 2010, final adverse determination. Guardian is not required to provide coverage for the core buildup provided on March 29, 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