

**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. 113635-001

v

Guardian Life Insurance Company  
Respondent

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Issued and entered  
this 25<sup>th</sup> day of March 2011  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On July 14, 2010, 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.* Petitioner receives group dental benefits through her employer under a certificate of coverage underwritten by Guardian Life Insurance Company (Guardian).

Guardian submitted the information used in making its adverse determination and the Commissioner accepted the request for review on July 22, 2010.

The case involves medical issues so the matter was assigned to an independent medical review organization, which submitted its report on August 4, 2010.

**II**  
**FACTUAL BACKGROUND**

On March 23, 2010, Petitioner received a crown buildup in addition to a crown preparation on tooth #19. Guardian provided coverage for the crown, but denied coverage for the crown

buildup ruling that it was not necessary to support the crown.

Petitioner appealed Guardian's denial of coverage but Guardian upheld its original determination. Guardian issued a final adverse determination on June 29, 2010.

### **III ISSUE**

Did Guardian correctly process the claim for Petitioner's crown buildup?

### **IV ANALYSIS**

#### Petitioner's Argument

Petitioner's argues that, because she had 3 cracks in her tooth, the crown buildup was medically necessary. In support of this treatment, her dentist Dr. XXXXX, in a letter dated May 27, 2010, indicated Petitioner's tooth #19 had a large failing amalgam with recurrent decay and fracture lines down the mesial, distal, and lingual walls. Dr. XXXXX wrote that a crown buildup was necessary because, after removing the old amalgam and decay, there was insufficient tooth structure remaining to restore tooth #19 with a new amalgam or composite filling.

#### Respondent's Argument

In its final adverse determination dated June 29, 2010, Guardian gave the following explanation of its denial of the claim:

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 benefit coverage for the crown buildup procedure was consistent with the terms of the certificate of coverage.

#### 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 (Certificate, p. 16.). The list of covered services is found

on pages 33 through 42 of the Certificate. The relevant portion of the list is reprinted below from page 39:

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.

\* \* \*

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 core Petitioner received was dentally necessary was presented to an independent medical review organization. The IRO reviewer assigned to this case is a doctor of dental medicine in active practice and is member of the American Dental Society and the Academy of General Dentistry.

The IRO reviewer reported the following facts and findings:

The records for the review include a copy of the [Petitioner's] bitewing radiograph dated August 29, 2009 and a copy of her chart notes dated March 30, 2010 and April 20, 2010. Dr. XXXXX makes mention of intraoral photos in her March 30, 2010 visit but no photos were submitted for the review.

The radiograph shows caries present in the center of the clinical crown. From the x-ray itself one cannot tell if the buccal and/or lingual walls of the tooth are involved. Dr. XXXXX notes that the caries "did not extend to the pulp or root." She does make mention that there were mesial, distal and lingual fracture lines present so one can assume those walls of the tooth were present. The radiograph does not show mesial or distal caries. The radiograph shows a tooth which when prepared should be able to support a crown despite the deep occlusal caries.

There was a seven (7) month lapse between the radiograph date and the treatment date. There is no way to appraise what changes may or may not have taken place.

The code 2950, core buildup, is intended for when the tooth has to be modified to support a crown. In this case, the restorative material was being placed in the center of the tooth in an area providing neither retentive or resistance form for a crown.

The IRO reviewer concluded the crown build up was not dentally necessary.

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 correctly applied the terms of their certificate of coverage in denying coverage for the crown buildup.

**V  
ORDER**

The Commissioner upholds Guardian Life Insurance Company's June 29, 2010, final adverse determination. Guardian is not required to provide benefit coverage for the Petitioner's crown buildup.

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.

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Ken Ross  
Commissioner