

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. 114110-001

v

Guardian Life Insurance Company
Respondent

Issued and entered
this 1st day of April 2011
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On July 21, 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 (PRIRA), MCL 550.1901 *et seq.* For this review, Mr. XXXXX chose to be represented by his dentist, XXXXX, D.D.S., of the XXXXX Dental Group.

Petitioner is covered under a group dental plan issued to his employer and underwritten by Guardian Life Insurance Company (Guardian). Guardian submitted the information used in making its adverse determination and the Commissioner accepted the case for review on July 29, 2010. Because the case involves medical issues, the Commissioner assigned the matter to an independent review organization, which completed its review and sent its recommendation to the Commissioner on August 12, 2010.

II
FACTUAL BACKGROUND

Petitioner's dentist determined that Petitioner needed a crown to repair tooth #18. The

dentist prepared the tooth for placement of the crown by building up the core of the tooth. Guardian provided coverage for the crown itself but denied coverage for the buildup which Guardian concluded was not medically necessary.

Petitioner appealed Guardian's denial of coverage for the crown build up procedure through its internal grievance process. Guardian upheld its denial and issued a final adverse determination dated July 1, 2010.

III ISSUE

Did Guardian correctly deny coverage for the crown build up under the terms of the certificate?

IV ANALYSIS

Petitioner's Argument

The Petitioner's appeal states:

Tooth #18 had a large amalgam filling with recurrent decay and hairline fractures. Upon removal of decay, the tooth had insufficient tooth structure remaining to support a crown. The tooth would have been nonrestorable without the placement of a crown. Retention pins were placed as needed, along with a base liner material, the tooth was filled with a resin material to rebuild the tooth. This is a very time consuming procedure and should be paid as a separate procedure not inclusive with the crown.

Respondent's Argument

In its July 1, 2010, final adverse determination, Guardian gave the following rationale to support the denial of the crown buildup:

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 crown buildup was in compliance with the terms of their 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. 15.). The list of covered services is found on pages 33 through 41 of the Certificate. The relevant portion of the list is reprinted below from page 40:

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 the medical necessity of the Petitioner's crown buildup was presented to an independent medical review organization. The IRO dental reviewer assigned to this case has been in practice for more than 15 years. The IRO report included the following conclusions:

[A] crown to restore tooth #18 was appropriate in this case. However, . . . there was no visible decay or loss of tooth structure sufficient to necessitate a crown build-up for tooth #18 prior to preparing this tooth for a crown. . . . [B]ased upon the information provided for review, there was enough tooth structure to adequately support a crown. . . . [M]ore than half of the coronal tooth structure was remaining above the pulp chamber.

The reviewer concluded the crown build up on tooth #18 was not medically 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's denial of the crown buildup was appropriate under the terms of the certificate.

V
ORDER

The Commissioner upholds Guardian Life Insurance Company's July 1, 2010, final adverse determination. Guardian is not required to provide coverage for the crown build up provided on April 19, 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