

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 113868-001

v

Guardian Life Insurance Company
Respondent

Issued and entered
this 28th day of April 2011
by R. Kevin Clinton
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On July 20, 2010, a request for external review was filed on behalf of XXXXX (Petitioner) by Ms. XXXXX's dentist. The request was filed under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* Petitioner is covered under a group dental certificate of coverage underwritten by Guardian Life Insurance Company (Guardian). The request for review was accepted by the Office of Financial and Insurance Regulation on August 12, 2010.

The case involves medical issues so it was assigned to an independent medical review organization, which completed its review and sent its recommendation to the Commissioner on August 26, 2010.

II
FACTUAL BACKGROUND

On November 30, 2009, Petitioner underwent periodontal scaling and root planing. Guardian denied coverage for the treatment, asserting that the treatment was not necessary.

Petitioner appealed the denial through Guardian's internal grievance process. Guardian did not change its decision and issued a final adverse determination June 29, 2010.

III ISSUE

Did Guardian correctly deny coverage for Petitioner's periodontal scaling and root planing under the terms of the certificate?

IV ANALYSIS

Petitioner's Argument

The request for review, prepared by the dentist's office staff, is reproduced below:

Patient present to office on 3/12/09. Perio exam completed by Dr. XXXXX that revealed 3mm with bleeding throughout dentition. Full mouth debridement completed in hopes that this would heal bleeding. Patient returned in Nov. (24th) perio re-evaluated 4mm with moderate generalized hemo on most posteriors. Pt. required anesthetic and SCRIP-ing all posteriors. interproximal calc. (brownish in color) removed subgingivally.

Respondent's Argument

In its final adverse determination, Guardian denied coverage for periodontal scaling and root planing, stating:

A licensed dentist has reviewed the clinical information submitted and determined that the bone level and gingival attachment appear to be within normal limits.

Guardian maintains that its decision to deny coverage was correct under 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 31 through 39 of Petitioner's certificate. The relevant portion of the list is reprinted below from page 35:

Periodontal Services

Allowance includes the treatment plan, local anesthetic and post-treatment care. Requires documentation of periodontal disease confirmed by both radiographs and pocket depth probings of each tooth involved.

Periodontal maintenance procedure – limited to a total of one prophylaxis or periodontal maintenance procedure in any 6 consecutive month period. Allowance includes periodontal pocket charting, scaling and polishing. . . . Coverage for periodontal maintenance is considered upon evidence of completed active periodontal therapy (periodontal scaling and root planing or periodontal surgery).

Scaling and root planing, per quadrant – limited to once per quadrant in any 24 consecutive month period. Covered when there is radiographic and pocket charting evidence of bone loss.

Full mouth debridement – limited to once in any 36 consecutive month period. Considered only when no diagnostic, preventive, periodontal service or periodontal surgery procedure has been performed in the previous 36 consecutive month period.

The medical necessity of the periodontal scaling and root planing was presented to an independent medical organization (IRO) for review. The reviewer assigned to the case is board certified in periodontics and has been in practice for more than 10 years.

The IRO reviewer reported the following facts and findings:

[T]he charting provided for review indicates that attachment loss was present. However . . . the records provided for review do not document gingival margin and recession. [W]ithout documentation of the gingival margin and recession, [the] amount [of] the attachment loss cannot be properly identified. Therefore . . . the information provided for review does not support the medical necessity of the services at issue in this appeal.

The IRO reviewer concluded the periodontal scaling and root planing were not medically necessary for the 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 accepts the IRO reviewer's conclusion and finds that Guardian correctly applied the terms of their certificate in denying coverage for the periodontal scaling and root planing.

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 periodontal scaling and root planing procedure Petitioner underwent on November 30, 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.

R. Kevin Clinton
Commissioner