

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. 114645-001

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 August 3, 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.*

Petitioner is covered under a group dental plan issued to her 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 August 11, 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 24, 2010.

II

FACTUAL BACKGROUND

On February 25, 2010, when preparing tooth #19 for a crown, the Petitioner's dentist

determined that a crown buildup was needed because there was not enough remaining tooth structure to support a crown. Guardian denied coverage for the crown buildup. The Petitioner appealed Guardian's denial through Guardian's internal grievance process. Guardian upheld its original determination and sent the Petitioner its final adverse determination dated July 1, 2010.

III ISSUE

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

IV ANALYSIS

Petitioner's Argument

In her request for external review, the Petitioner wrote:

The doctor placed a core filling in my #19 tooth because there was decay underneath the existing filling. He felt that it would allow for him to properly prepare the tooth when the time came to do the crown work to the ideal shape and size for maximum crown support. I would like the core filling to be covered.

Respondent's Argument

In its July 1, 2010, final adverse determination, Guardian gave the following rationale for its denial of the 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.

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 33 through 42 of Petitioner's policy. 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. . . .

The question of whether the crown buildup was necessary was presented to an independent review organization (IRO) for analysis. The IRO dentist consultant assigned to this case is a doctor of dental medicine in active clinical practice who is a member of the American Dental Society and the Academy of General Dentistry. The findings of the reviewer appear below.

The radiographs show an existing MOD composite restoration on #19 with the distal portion of the restoration fractured. The periapical radiograph shows no periapical pathology. The bite-wing radiograph shows the fractured restoration. Caries does not appear to extend apically affecting the tooth structure needed to support a crown.

* * *

The February 25, 2010 entry documents that #19 was 'prep and caries removal' and appropriate dental restorative material to restore the tooth. The notes make no mention of extensive caries removal or that the caries compromised the walls of a crown preparation.

The radiographs and clinical notes do not document a tooth so compromised that a core buildup would be required for a crown preparation. Instead, the radiographs reflect that there is enough coronal tooth structure for a crown preparation.

The code D2950 – core buildup is intended for when the tooth has to be modified to support a crown. In this instance the restorative material was being placed in the mesial and distal boxes. Once a crown preparation is made for this tooth little or no restorative material would be left from the build-up.

The ADA discussed the use of code D2950 in the CDT companion guide. When "a material is used only to eliminate undercuts, usually termed a base, it is included in the crown preparation procedure."

Dr. XXXXX's notes for the February 25 visit read like an operative dentistry appointment for a three (3) surface composite restoration. The enrollee was anesthetized, a preparation made, caries removed, a glass ionomer base placed, etched, bonded, composite placed, occlusion adjusted and the restoration polished. His notes stipulate that this was a 'core' procedure. On the enrollee's June 5, 2010 visit the hygienist notes that #19 still needs a crown.

The IRO reviewer concluded that Guardian's denial of coverage should be upheld.

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 the crown buildup procedure was not necessary and therefore not a covered benefit. Guardian correctly applied 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 buildup on tooth #19.

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