

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. 115174-001

V

Guardian Life Insurance Company
Respondent

Issued and entered
this 2nd day of May 2011
by R. Kevin Clinton
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On August 17, 2010, XXXXX, authorized representative of patient 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 Office of Financial and Insurance Regulation accepted the request on August 24, 2010. The case involves medical issues so the Commissioner assigned the matter to an independent review organization, which completed its review and sent its recommendation to the Commissioner on September 7, 2010.

II
FACTUAL BACKGROUND

The Petitioner receives dental coverage under a group plan that is underwritten by Guardian Life Insurance Company (Guardian). On May 1, 2010, when preparing tooth #15 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 on the basis it was not necessary.

The Petitioner appealed Guardian's denial of the buildup 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

Petitioner's dentist, Dr. XXXXX, disputes Guardian's denial of coverage for the crown build. Dr. XXXXX indicated there was significant loss of tooth structure from the removal of the decay at tooth #15 that compromised existing amalgam restoration. Dr. XXXXX also said that "a bonded core was indicated to aid in providing adequate resistance and retention form for the final restoration."

Respondent's Argument

In its July 1, 2010 final adverse determination, Guardian gave the following rationale for its denial of the crown build up:

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 103 through 112 of Petitioner's policy. The relevant portion of the list is reprinted below from page 110:

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's reviewer is a licensed dentist in active practice, a fellow of the American College of Healthcare Executives, a certified dental consultant, and is certified by the American Board of Quality Assurance and Utilization. The reviewer's report includes the following analysis:

The radiograph does not support the indication for a core buildup and provider note of needing a core and crown does indicate provider judgment but does not present evidence supporting that decision. Proof of loss of sufficient tooth structure to justify core buildup has not been presented. There appears to be sufficient natural tooth structure remaining to provide adequate support and retention for the cast crown.

Clinical Rationale for the Decision

The bitewing radiograph of April 3, 2010, exhibits minimal loss of natural structure and exhibits neither the loss of one-half of natural tooth structure nor the loss of two cusps considered indications for D2950 core buildup including any pins.

This is intended neither to besmirch the clinical judgment nor integrity of the provider but clinical notes stating "removes caries, very large, pt in need of core & crn" clearly do not address the indications for a core buildup.

Recommendation

It is the recommendation of this reviewer that the denial of coverage issued by Guardian Life Insurance Company of America for the D2950 core buildup including any pins 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 Guardian correctly applied the terms of the certificate of coverage.

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 Petitioner's crown buildup on tooth #15.

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