

**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

v

United Healthcare Insurance Company  
Respondent

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File No. 117058-001

Issued and entered  
this 19<sup>th</sup> day of May 2011  
by R. Kevin Clinton  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On September 16, 2010, XXXXX, DDS, authorized representative of 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 Commissioner notified United Healthcare Insurance Company (UHC) of the external review and requested the information it used to make its adverse determination. The information was received and reviewed and the request for external review was accepted on September 23, 2010.

This case involves medical issues so the Commissioner assigned it to an independent review organization for review. The independent review organization submitted its recommendation to the Commissioner on December 3, 2010.

**II**  
**FACTUAL BACKGROUND**

The Petitioner is covered under a group health plan underwritten by UHC. His benefits are defined in the United Healthcare Choice Plus certificate of coverage (the certificate).

On April 11, 2009, the Petitioner was accidentally hit in the mouth by a shovel. The accident affected teeth #7, #8, #9, and #10. Teeth #8 and #9 required implants which were placed in October 2009.

In May 2010, more than a year after the accident, the Petitioner was evaluated by Dr. XXXXX. Dr. XXXXX submitted an authorization request to UHC for implant crown treatment on teeth #8 and #9, a crown on tooth #7, and a resin restoration of tooth #10.

UHC initially denied the entire request but later agreed to allow Dr. XXXXX to complete the implant crown treatment on teeth #8 and #9.<sup>1</sup> However, UHC denied any further treatment for teeth #7 and #10.

The Petitioner appealed the denial through UHC's internal grievance process. UHC maintained its denial and issued its final determination dated July 12, 2010. (UHC later sent the Petitioner a revised final adverse determination dated September 23, 2010.)

### **III ISSUE**

Did UHC correctly deny coverage for the treatment to teeth #7 and #10?

### **IV ANALYSIS**

#### Petitioner's Argument

In a letter to UHC dated May 12, 2010, Dr. XXXXX explained why the Petitioner's treatment could not be completed within UHC's time limits:

During [the Petitioner's] accident he traumatically lost teeth #'s 8 and 9 which will need dental implant crown treatment. Tooth #7 was fractured and is in need of a crown at this time (possible need for endodontic treatment in the future). Tooth #10 was also damaged in this accident and is need of a resin restoration.

[The Petitioner's] treatment could not be initiated / completed within your 12 month time period, due to the following reasons:

1. Adequate healing of the injured area is necessary prior to placing the dental implants.

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<sup>1</sup> Because UHC agreed to cover the remaining services for teeth #8 and #9, they are not at issue in this external review.

2. A period of healing, (usually approximately 4-6 months), is necessary prior to performing the *temporary* restoration of dental implants.
3. Three month period between temporary restoration stage and final restoration stage
4. The final treatment stage (can usually be completed in approximately 4 months time)

Dr. XXXXX argues that UHC should cover the dental services because time allowed for healing between procedures is part of a successful treatment plan. Dr. XXXXX noted that his initial appointment with the Petitioner was not until May 2010 and he therefore had no way of providing treatment before the limit expired. Additionally, Dr. XXXXX indicated that treatment must be provided on all four affected teeth simultaneously to ensure the procedures will be successful and free of complications.

#### Respondent's Argument

Under the terms of the certificate, dental services to repair damage caused by accidental injury must generally be completed within 12 months of the accident (by April 11, 2010, in this case). In its July 12, 2010 final adverse determination, UHC denied coverage for the treatment of teeth #7 and #10, because the treatment had not been completed within 12 months and there were no extenuating circumstances documented that would justify an extension of the time:

We confirmed...that the requested service(s) for tooth #10 and tooth #7 have not been completed within the time limit set forth in the Benefit Plan [and are] therefore not eligible for payment as you requested. There were no extenuating circumstances documented for the requested service(s).

UHC subsequently sent the Petitioner a revised final adverse determination dated September 23, 2010. In that determination, UHC acknowledged that Dr. XXXXX could complete the restoration of teeth #8 and #9:

Based upon further review and due to the nature of the traumatic injury, completion of teeth #8 and #9 with a dental implant crown is a covered procedure under the Plan, subject to Plan limits, coding, and reimbursement policies.

But UHC again denied coverage for the treatment for teeth #7 and #10 on the basis that the treatment had not been completed within the certificate's time limits and no extenuating

circumstances had been shown:

Resin restoration of tooth #10 and a crown for tooth #7 has not been completed with the time limit set within the Medical Plan benefit document and are not covered benefits. (No extenuating circumstances are documented for this service).

#### Commissioner's Review

The Petitioner has only limited coverage for dental services under his health care coverage.

The dental benefit is in Section 4 of the certificate (pp. 9-10):

#### **4. Dental Services - Accident Only**

Dental services when all of the following are true:

- Treatment is necessary because of accidental damage.
- Dental services are received from a Doctor of Dental Surgery or Doctor of Medical Dentistry.
- The dental damage is severe enough that initial contact with a Physician or dentist occurred within 72 hours of the accident. (You may request an extension of this time period provided that you do so within 60 days of the Injury and if extenuating circumstances exist due to the severity of the Injury.)

Please note that dental damage that occurs as a result of normal activities of daily living or extraordinary use of the teeth is not considered having occurred as an accident. Benefits are not available for repairs to teeth that are damaged as a result of such activities.

Dental services to repair damage caused by accidental Injury must conform to the following time-frames:

- Treatment is started within three months of the accident, unless extenuating circumstances exist (such as prolonged hospitalization or the presence of fixation wires from fracture care).
- Treatment must be completed within 12 months of the accident.

Benefits for treatment of accidental Injury are limited to the following:

- Emergency examination.
- Necessary diagnostic X-rays.
- Endodontic (root canal) treatment.
- Temporary splinting of teeth.

- Prefabricated post and core.
- Simple minimal restorative procedures (fillings).
- Extractions.
- Post-traumatic crowns if such are the only clinically acceptable treatment.
- Replacement of lost teeth due to the Injury by implant, dentures or bridges.

It is undisputed that the Petitioner's need for dental treatment was caused by an accident. There is also no dispute about the medical necessity of the treatment proposed by Dr. XXXXX or that the proposed treatment falls within the dental benefit. The only issue in this external review is one relating to time periods.

The certificate has a two-prong provision that sets the limits for completing dental services necessitated by accidental injury:

Dental services to repair damage caused by accidental Injury must conform to the following time-frames:

- Treatment is started within three months of the accident, unless extenuating circumstances exist (such as prolonged hospitalization or the presence of fixation wires from fracture care).
- Treatment must be completed within 12 months of the accident.

This provision could be read to say that extenuating circumstances are considered only under the first prong, i.e., when determining if treatment has started within three months of the accident. However, based on the rationale it gave in its two final adverse determinations, UHC also looks at extenuating circumstances under the second prong to determine if treatment could be completed within 12 months. In the Petitioner's case, UHC decided there were no extenuating circumstances that would justify extending the time to complete the dental work on teeth #7 and #10.<sup>2</sup>

Dr. XXXXX, in a letter to UHC dated August 20, 2010, explained the circumstances that

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<sup>2</sup> UHC did decide that there were extenuating circumstances that warranted extending the time for completing the services on teeth #8 and #9 beyond 12 months.

prolonged the time for the completion of the work on teeth #7 and #10:

The procedures for #'s 7 and 10 could not be completed in the time frame

required, due to the position of the teeth. Being next to the teeth that were lost (#'s 8 and 9) it is important these teeth (#'s 7 and 10) be treated at the same time as the teeth avulsed in the accident.

When dental implant treatment was performed, as on #'s 8 and 9, (which were knocked out at the time of the accident), the bone and soft tissues changed around the area. Because extensive treatment was necessary to the adjacent teeth, such as crowns (#7, 10), it is important the fit and contour of the crowns be accurate therefore the treatment is needed to be completed at the same time. Poor contours will make it very difficult to maintain these areas, greatly increasing the potential for further treatment.

I realize this treatment will be over a year from the date of the accident however these factors must be taken into account when planning successful treatment for [the Petitioner]. At this time we are unable to complete the *temporary / final* treatment stage(s) and are awaiting your approval to proceed.

In order to answer the question of whether there were extenuating circumstances that prevented the completion of the Petitioner's dental care within 12 months of his accident, the Commissioner obtained an analysis and recommendation from an independent review organization (IRO) as required by section 11(6) of PRIRA, MCL 550.1911(6). The review was conducted by a dentist in active practice who is board certified in periodontology. The IRO reviewer recommended reversing UHC's denial of coverage for the services for teeth #7 and #10.

The IRO report explained:

The MAXIMUS dentist consultant noted that teeth #7 and 10 were damaged in the [Petitioner's] accident. The MAXIMUS dentist consultant also noted that this accident also resulted in the exfoliation of teeth #8 and 9. The MAXIMUS dentist consultant indicated that teeth #8 and #9 had to be replaced with implants. The MAXIMUS dentist consultant also noted that the dental implant procedure took more than one year. The MAXIMUS dentist consultant explained that it was necessary to wait to restore teeth #7 and #10 until the implant procedure and restoration of teeth #8 and #9 was complete so that all of the restorations would match.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that there were extenuating circumstances that prevented completion of the services on teeth #7 and #10 within 12 months of the accidental injury.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation 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 expertise and professional judgment and the Commissioner can discern no reason why the IRO's recommendation should be rejected in this case.

Therefore the Commissioner accepts the conclusion of the IRO reviewer and finds that there were extenuating circumstances that justified extending the time to complete the dental work on teeth #7 and #10 beyond 12 months. UHC incorrectly denied coverage for the completion of the dental services.

**V  
ORDER**

The Commissioner reverses UHC's final adverse determinations of July 12 and September 23, 2010. UHC shall authorize coverage for the dental services for the Petitioner's teeth #7 and #10 within 60 days from the date of this Order, and shall provide the Commissioner with proof of compliance within seven days of compliance.

To enforce this Order, the Petitioner should report any complaint regarding compliance to the Office of Financial and Insurance Services, Health Plans Division, at (877) 999-6442.

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 60 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 the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner