

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

XXXXXX

Petitioner

File No. 117614-001

v

Guardian Life Insurance Company

Respondent

Issued and entered
this 20th day of June 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On October 16, 2010, XXXXX, 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 case was accepted for review on October 25, 2010. Because medical issues were involved, the Commissioner assigned the case to an independent review organization which provided its analysis and recommendations to the Commissioner on December 14, 2010.

II. FACTUAL BACKGROUND

Petitioner is covered under a group dental certificate, underwritten by Guardian, issued to his employer United Bancorp, Inc.

On March 10, 2010, Guardian denied coverage for a crown on tooth #14 but approved coverage for the alternate benefit of a two surface amalgam. On May 26, 2010, Petitioner proceeded with the core build up including pins and a cast post and core in addition to a crown for tooth #14.

Petitioner appealed Guardian's ruling. Guardian upheld its decision and issued its final adverse determination dated August 25, 2010.

III. ISSUE

Did Guardian correctly deny coverage for Petitioner's crown in favor of a two surface amalgam under the terms of the certificate of coverage?

IV. ANALYSIS

Petitioner's Argument

Petitioner's request for external review states:

We submitted a claim for a crown on #14. Guardian only approved a 2 surface amalgam. We appealed their decision but they upheld their original determination. There is a fracture line in the ML cusp which is causing weakness. A crown was needed for proper restoration. We are requesting Guardian insurance pay benefits for a porcelain crown.

Respondent's Argument

In the final adverse determination dated August 25, 2010, Guardian gave the following rationale to support the denial of the claim for the crown and crown buildup procedure:

On 08/10/10 your claim for the crown for tooth-14 performed on 5/26/10, was received. Coverage for these services was denied. A licensed dentist has reviewed the clinical information submitted and determined that this tooth does not appear to have decay or injury that would require a crown, inlay, onlay or veneer. We have considered the charge for a two surface amalgam on tooth-14. The dental plan only covers crowns, inlays, onlays and veneers when needed due to decay or injury and when the tooth cannot be restored with a routine filling.

Guardian maintains that its decision to deny coverage for the crown was in compliance with the terms of Petitioner's certificate.

Commissioner's Review

Guardian provides coverage for dental services when they meet the criteria of its certificate of coverage. The certificate includes the following provisions:

On pages 74:

Covered Charges

* * *

To be covered by this plan, a service must be: (a) necessary; (b) appropriate for a given condition; and (c) included in the List of covered Dental Services.

On page 83:

Alternate Treatment

If more than one type of service can be used to treat a dental condition, we have the right to base benefits on the least expensive service which is within the range of professionally accepted standards of dental practice as determined by us. For example, in the case of bilateral multiple adjacent teeth, or multiple missing teeth in both quadrants of an arch, the benefit will be based on a removable partial denture. In the case of a composite filling on a posterior tooth, the benefit will be based on the corresponding amalgam filling benefit.

On page 96:

List of Covered Dental Services

Group III – Major Dental Services

Major Restorative Services

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 was medically necessary was presented to an independent medical organization (IRO) for review. The IRO reviewer assigned to this case has an active practice in general dentistry and is a member of the American Dental Association and the American Academy of Craniofacial Pain. The IRO reviewer explained:

It is the determination of this reviewer that there appears to be no radiographic evidence of a fracture in tooth #14; however, many times stress fractures do not “show up” on radiographs. The radiograph does display a substantial amount of tooth structure remaining. Based on the amount of tooth structure visible on the radiograph, it is this reviewer’s opinion that a more conservative restoration could be placed incorporating a bonding material to support any weakened cusps.

Clinical Rationale for the Decision:

The standard of care is to preserve tooth structure whenever possible. Restorations are chosen based on the amount of the tooth structure.

Per the current literature, the references listed below all support conservative restoration rather than a crown in this enrollee’s case:

“A crown is most often used as a means of restoring a tooth that has been broken beyond the point at which it can be built up with filling material.”¹

“When there is a matter of conjecture as to the advisability of filling or crowning, unless for esthetic reasons, the preference should be given to filling.”²

“The possibility of replacing the restoration rather than crowning the teeth should normally be considered first.”³ [References omitted]

Therefore, per the current standard of care, the crown requested for tooth #14 is not dentally necessary as conservative restoration is appropriate in this enrollee’s case.

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 finds that Guardian’s coverage for a two surface amalgam for tooth #14 and denial of coverage of the crown was consistent with the terms of the certificate.

V. ORDER

The Commissioner upholds Guardian Life Insurance Company’s August 25, 2010, final adverse determination.

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

R. Kevin Clinton
Commissioner