

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████
Petitioner

v

Guardian Life Insurance Company
Respondent

File No. 145165-001

Issued and entered
this 6th day of January 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 2, 2014, ██████████, on behalf of ██████████ (Petitioner), filed a request with the Director of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner has dental coverage through a group plan underwritten by Guardian Life Insurance Company of America (Guardian). The Director notified Guardian of the external review request and asked for the information it used to make its final adverse determination. Guardian's response was received on December 5, 2014, and the Director accepted the external review request on December 8, 2014.

To address the medical issues in the case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation to the Director on December 22, 2014.

II. FACTUAL BACKGROUND

The Petitioner required dental work on two teeth. On May 6, 2014, her dentist provided a two-surface porcelain ceramic inlay on tooth #30 and a one-surface ceramic inlay on tooth #31 (procedure codes D2620 and D2610 respectively). Guardian denied coverage for the inlays but provided coverage for the alternate benefit of a two surface amalgam on tooth #30 (procedure code D2160) and a one-surface amalgam (procedure code D2150) on tooth #31.

The Petitioner appealed the denial of coverage for the inlays through Guardian's internal appeals process. At the conclusion of that process, Guardian maintained its denial and issued a final adverse determination dated October 10, 2014. The Petitioner now seeks from the Director a review of that adverse determination.

III. ISSUE

Did Guardian correctly deny coverage for the Petitioner's inlays on teeth #30 and #31?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination Guardian said that the inlays were not medically necessary because the teeth did not:

appear to have decay or injury that would require a crown, inlay, onlay, or veneer. An alternate benefit of D2150 has been considered. 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.

In a letter dated December 20, 2014, submitted for this external review, Guardian wrote:

The dental plan provides that all covered dental services must be usual and necessary treatment for a dental condition, with proof of loss substantiated through reviews of diagnostic radiographs and other supporting materials. Reviews are performed by licensed dentists acting in a consultant capacity. Pretreatment review is recommended for proposed treatment exceeding \$300 to ensure that all parties are aware of the projected available plan benefit and associated patient liability prior to work being performed. No pretreatment request was received prior to receipt of the claim for completed treatment.

Three separate claim reviews have been performed on these procedures. Based on review of the clinical information provided, in all three reviews the consultants advised that teeth #30 and #31 do not appear to have substantial decay or injury necessitating an inlay procedure, and advised both teeth can be restored to professional adequacy with routine filling procedures. According to the terms of the plan Guardian processed denials (alternate benefits) on 5/27/2014, 7/8/2014, and 10/10/2014.

Petitioner's Argument

In the request for an external review, the Petitioner's dentist explained why he concluded the procedures were medically necessary:

[Patient] presented with sensitivity to L/R area. Upon examination there were existing large fillings on teeth #30 and #31 with decay around the margins where gum was receding a bit. The decision to place inlays was based on the fact that she wanted to remove as little tooth structure as possible, thus leaving the option for a crown, at a later date, if necessary.

There was NOT enough tooth structure remaining to hold a conventional filling, if we need to change these out to full coverage crowns for insurance purposes we can it just seems a bit backward.

[Petitioner] is well within the parameters of [her] policy to have the buildup covered.

Director's Review

The certificate covers inlays as major restorative services when medically necessary due to decay or injury. The benefit is described in the certificate (page 33):

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....

The question of whether the inlays provided on teeth #30 and #31 were medically necessary was presented to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO consultant is a licensed dentist who is in active practice and is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

[T]he radiographs provided for review show that teeth #30 and 31 have existing one-surface occlusal alloy restorations with no recurrent caries or cuspal fractures visualized on either tooth. The appeal letter stated that tooth #30 had recurrent caries that left sufficient tooth structure remaining for an inlay, but that a composite restoration "would not have been able to hold the tooth together" and that putting composite filings in these teeth would have been a disservice given the member's deep bite. However...these statements are not supported by radiographic findings....[W]ith existing one surface restorations of small to moderate size and no extensive recurrent caries observed on an additional surface, there is no evidence precluding the more conservative approach of traditional bonded restorations.

Pursuant to the information set forth above and available documentation...the 2 surface inlay (D2620) that the member received for tooth #30 and the 1 surface

inlay (D2610) she received for tooth #31 on 5/6/14 were not medically necessary for treatment of her condition. (American Dental Association Counsel on Scientific Affairs. Direct and indirect restorative materials. JADA. 2003 Apr;134(4):463-72.)

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the recommendation is afforded deference by the Director. In a decision to uphold or reverse an adverse determination the Director must cite "the principal reason or reasons why the [Director] 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. In addition, the IRO's recommendation is not contrary to any provision of the certificate. MCL 550.1911(15).

The Director can discern no reason why the IRO's recommendation should be rejected. The Director finds that the inlays are not medically necessary and, for that reason, Guardian's denial of coverage is consistent with the terms of the certificate.

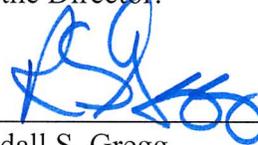
V. ORDER

The Director upholds Guardian Life Insurance Company's October 10, 2014 final adverse determination. Guardian is not required to provide coverage for the Petitioner's inlays.

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 Michigan 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 Department of Insurance and Financial Services, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director