

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 of America
Respondent

File No. 145934-001

Issued and entered
this 24th day of February 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On January 23, 2015, ██████████, DDS, authorized representative of her patient ██████████ (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 used to make its final adverse determination. Guardian submitted its response on January 26, 2015. After a preliminary review of the material submitted, the Director accepted the request on January 30, 2015.

To address the medical issues presented, the Director assigned the case to an independent medical review organization which provided its analysis and recommendation on February 13, 2015.

II. FACTUAL BACKGROUND

On October 7, 2014, the Petitioner had a crown buildup and a crown placed on tooth #14. Guardian provided coverage for the crown but denied coverage for the crown buildup, saying the buildup was not necessary.

The Petitioner appealed the denial through Guardian's internal grievance process. At the

conclusion of that process, Guardian affirmed its decision in a final adverse determination dated January 3, 2015. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did Guardian correctly deny coverage for the crown buildup on tooth #14?

IV. ANALYSIS

Guardian denied coverage for the crown buildup because tooth #14 “appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown.” In a letter dated January 23, 2015 submitted for this review, Guardian wrote:

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 this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for a crown. In the first two reviews the consultants advised that this tooth does not appear to have decay or injury necessitating a crown. On the [third] review the consultants allowed the crown. According to the terms of the plan Guardian issued denials on 10/22/2014 and 1/5/2015 for the crown and crown build up procedures. On 11/21/2015 Guardian issued a denial for the crown build up and payment for the crown.

In the external review request, the Petitioner’s dentist and authorized representative said:

On Oct. 16, 2014 patient came in for a cleaning and was complaining of discomfort in the area of [teeth] 14 -15. It hurt to chew and was cold sensitive. #14 had fracture in mesial-buccal cusp. Tooth needed a crown. Upon prepping of tooth—entire cusp broke off and tooth needed a core.

The Petitioner’s dental benefits are defined in a certificate of group insurance coverage issued by Guardian. Guardian covers dentally necessary crown buildups as “major restorative services.” The coverage is described in the certificate on page 44:

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....

Posts and buildups – only when done in conjunction with a covered unit of crown or bridge and only when necessitated by substantial loss of natural tooth structure.

The question of whether the crown buildup on tooth #14 was dentally (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 reviewer is a licensed dentist in active clinical practice who has been in practice for more than 15 years and is familiar with the medical management of patients with the Petitioner's condition. The IRO reviewer concluded that "The core buildup of tooth #14 was dentally/medically necessary for treatment of the member's condition." The reviewer's report included the following analysis:

[T]he radiograph provided shows tooth #14 had an existing moderately deep alloy restoration on the occlusal or occluso-lingual surfaces....[W]hen there is an existing defective restoration present in a tooth, the standard of care requires that preparation of the tooth for a crown includes removal of the existing restoration along with any recurrent caries. Ideal tooth preparation for a crown requires approximately 2 mm tooth reduction for adequate space for the material....[T]he radiograph provided for review confirms that upon removal of the existing restoration, tooth reduction would have been well beyond this depth and likely within several millimeters of the pulp chamber....[A]s such, the core buildup of tooth #14 was medically necessary and consistent with the standard of care for completion of the crown and was not just a filler under the restoration.

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 Petitioner's certificate of coverage. See MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected, finds that the crown buildup on tooth #14 was medically/dentally necessary and is therefore a benefit under the certificate.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's January 3, 2015, final adverse determination. Guardian shall immediately provide coverage for the crown buildup on Petitioner's tooth #14 and shall, within seven days of providing coverage, furnish the Director with proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding its implementation to the Department of Insurance and Financial Services, Health Care Appeals Section, toll free 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 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