

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

In the matter of:

██████████
Petitioner

v

File No. 146422-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 26th day of March 2015
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On February 20, 2015, ██████████, authorized representative 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 that is underwritten by Guardian Life Insurance Company of America. 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 February 24, 2015. After a preliminary review of the material submitted, the Director accepted the request on February 27, 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 March 13, 2015.

II. FACTUAL BACKGROUND

On October 21, 2014, the Petitioner had a crown buildup and a crown placed on tooth #18. 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 February 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 #18?

IV. ANALYSIS

In its final adverse determination, Guardian denied coverage, saying tooth #18 “appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown.” In a letter dated February 24, 2015, submitted for this external review, Guardian wrote:

Two separate claim reviews have been performed on this procedure. Based on review of the clinical information provided, in both reviews the consultants advised that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for a crown. According to the terms of the plan Guardian processed denials for the crown on 12/02/2014 and 2/3/2015.

In the external review request, the Petitioner’s authorized representative wrote:

Our patient above was treated on 10/21/14 for a limited evaluation for a broken tooth #18. The mesial-lingual cusp was fractured and there was decay around the existing large filling. After cusp was removed along with the old existing alloy, a core build up was necessary to provide an adequate foundation for proper retention. With the broken ML cusp and the large allow, over 65% of the tooth was gone [and] therefore a core and full coverage was the appropriate treatment. See attached.

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 (page 41):

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 #18 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 who has been in active practice for more than 15 years and is familiar with the medical management of patients with the Petitioner's condition. The IRO reviewer's report included the following analysis and recommendation:

The member presented with a moderately deep amalgam restoration on tooth #18. The photograph and radiograph provided for review show evidence of a mesial fracture and recurrent decay of tooth #18...[W]ith an existing defective restoration present in the tooth, to prepare the tooth for the approved crown, the standard of care states that the existing restoration would have to be removed along with any existing 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 #18 was medically necessary and consistent with the standard of care for completion of the crown and was not just a filler under the restoration.

Pursuant to the information set forth above and available documentation...the core buildup of tooth #18 was dentally/medically necessary for treatment of the member's condition.

[Citations omitted.]

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 #18 was medically necessary and is therefore a benefit under the certificate.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's February 3, 2015, final adverse determination. Guardian shall immediately provide coverage for the crown buildup on tooth #18 and shall, within seven days of providing coverage, furnish the Director with proof it has implemented this order.

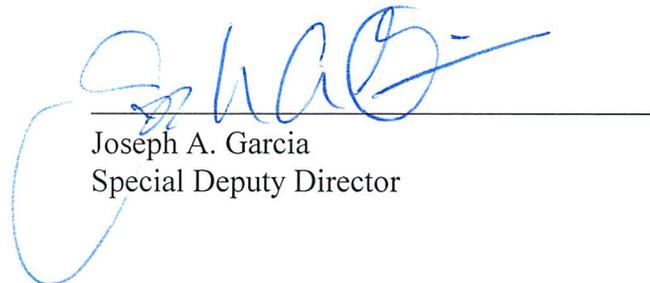
To enforce this order, the Petitioner may report any complaint regarding the implementation to the Department of Insurance and Financial Services, Health Care Appeals Sections, at this toll free telephone number: (877) 999-6442.

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:



Joseph A. Garcia
Special Deputy Director