

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. 146830-001

Guardian Life Insurance Company of America,

Respondent.

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Issued and entered  
this 14<sup>th</sup> day of April 2015  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

On March 16, 2015, ██████████, DDS, authorized representative of his 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 immediately notified Guardian of the external review request and asked for the information it used to make its final adverse determination. Guardian furnished the information on March 20, 2015. After a preliminary review of the material submitted, the Director accepted the request on March 23, 2015.

To address the medical issues in the case, the Director assigned the matter to an independent medical review organization which provided its analysis and recommendation to the Director on April 6, 2015.

**II. FACTUAL BACKGROUND**

The Petitioner's dental benefits are defined in a certificate of coverage issued by Guardian entitled *Your Group Insurance Plan Benefits* (the certificate).

On November 6, 2014, the Petitioner had a crown (core) buildup and a crown placed on tooth #31. Guardian denied coverage for both procedures as not dentally necessary.

The Petitioner appealed Guardian's denial through its internal appeals process. At the conclusion of that process, Guardian affirmed its decision in a final adverse determination issued February 17, 2015. The Petitioner now seeks a review of that adverse determination from the Director.

### III. ISSUE

Did Guardian correctly deny authorization for the Petitioner's crown buildup and crown on tooth #31?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, Guardian said it denied coverage for the crown buildup and crown because tooth #31 "does not appear to have decay or injury" and "appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown."

In a letter dated March 20, 2015, sent for this external review, Guardian also said:

Two claim reviews have been performed on these procedures. Based on review of the clinical information provided, in both reviews the consultants advised that this tooth [#31] does not appear to have decay or injury. According to the terms of the plan Guardian processed benefit predetermination denials on 12/1/2014 and 2/17/2015.

#### Petitioner's Argument

On the request for external review form, the Petitioner's dentist said:

[The Petitioner] was having increasing pain associated with tooth #31. Crack noted running down distal marginal ridge subgingivally. Pain elevated on occlusal pressure. Core/crown placed to treat tooth-necessary to prevent tooth loss. . . .

In a letter dated February 24, 2015, accompanying the external review request, the Petitioner also explained why she believes Guardian should provide coverage:

I was having tremendous pain in this tooth and immediately went to my dentist. Upon examination, [he] administered the appropriate care and determined that due to the decay and injury to this tooth, I would need to have it restored with a crown.

██████████ has been my dentist for over 20 years now. I have the utmost confidence in his ability to diagnostic and determine the best possible treatment

my dental care, preventive and otherwise. [REDACTED], upon examination of the tooth, recommend[ed] that it be repaired with a crown due to the decay and apparent injury to the tooth, where by a routine filling would not be feasible in my case.

I have never questioned [REDACTED] in any recommendation he has made concerning my dental care, and believe that the determination to restore this tooth with a crown rather than a filling was the appropriate measure to take.

After the proper treatment of this tooth and new crown, I no longer have any tooth pain, nor do I need to worry about the loss of a filling in the future. The pain I experienced with this tooth was unbearable and I am so thankful to [REDACTED] for the care he has given me over the years.

. . . I believe that [REDACTED] preformed this procedure with the utmost knowledge and expertise based on his years of experience and his sterling reputation as a dentist.

#### Director's Review

Coverage for crowns and crown buildups is described in the certificate (p. 38):

##### **Major Restorative Services**

Crowns, inlays, onlays, labial veneers, and crown build-ups 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 . . . and only when necessitated by substantial loss of natural tooth structure.

The question of whether the crown buildup and crown on tooth #31 were needed because of decay or injury 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 clinical practice for more than 15 years. The IRO report included the following analysis and recommendation:

##### **Recommended Decision:**

The MAXIMUS dentist consultant determined that the crown and core buildup of tooth #31 performed on 11/6/14 were not medically/dentally necessary for treatment of the member's condition.

**Rationale:**

\* \* \*

The member stated in her appeal letter that she presented with a complaint of “tremendous” pain. However, clinical notes provided for review do not describe or document a complaint of pain. According to the appeal note from the treating dentist, tooth #31 had a crack running down the distal marginal ridge subgingivally with pain on occlusal pressure. The appeal also states that the crown was placed to prevent tooth loss.

The MAXIMUS dentist consultant explained that the clinical progress notes submitted for review do not document a complaint of pain or symptoms related to pain. The dentist consultant indicated that the radiograph provided for review shows tooth #31 preoperatively to have a very shallow and conservative alloy restoration present with no caries or cusp loss visualized. The information provided for review does not contain notation of a more conservative attempt at treating the member’s symptoms. The consultant noted that the literature shows that a shallow restoration with a crack, as was present in this case, can frequently be treated successfully with a more conservative bonded restoration with resolution of symptoms. The dentist consultant indicated that as there was no notation of a failed attempt at conservative treatment and a minimal restoration was present with no significant recurrent caries visualized, a full gold crown was not medically necessary in this case. The consultant also indicated that as a crown was not medically necessary, the associated procedure of a crown buildup (core buildup) was also not medically necessary.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that the crown and core buildup of tooth #31 performed on 11/6/14 were not medically/dentally necessary for treatment of the member’s condition. [References 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 recommendation is based on experience, expertise, and professional judgment. Furthermore, it is not contrary to any provision of the certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO’s recommendation should be rejected, accepts the IRO report and finds that the crown and crown buildup were not dentally necessary.

**V. ORDER**

The Director upholds Guardian Life Insurance Company of America's February 17, 2015, 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 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:



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Randall S. Gregg  
Special Deputy Director