

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. 147302-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 13th day of May 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 13, 2015, ██████████, DDS, authorized representative on behalf 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 that is underwritten by Guardian Life Insurance Company of America. The Director immediately notified Guardian of the external review request and asked for the information used to make its final adverse determination. Guardian submitted its response on April 15, 2015. After a preliminary review of the material submitted, the Director accepted the request on April 20, 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 May 4, 2015.

II. FACTUAL BACKGROUND

The Petitioner's dental benefits are defined in a certificate of group coverage (the certificate) issued by Guardian.

On December 23, 2014, the Petitioner had a crown buildup and a crown placed on tooth #14. Guardian covered the crown but denied coverage for the crown buildup, saying it 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 March 2, 2015. The Petitioner now seeks a review of that final adverse determination from the Director.

III. ISSUE

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

IV. ANALYSIS

In its final adverse determination to the Petitioner, Guardian denied coverage for the crown buildup, saying tooth #14 "appears to have sufficient tooth structure remaining to provide adequate support and retention for an indirect restoration."

In a letter dated April 14, 2015, submitted for this external review, Guardian further said:

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 issued denials on 1/14/2015 and 3/2/2015.

In a letter to Guardian dated February 12, 2015, that was submitted with the request for an external review, the Petitioner's authorized representative wrote:

[The Petitioner] presented to our office with a large amalgam restoration with recurrent caries and multiple fracture lines on Buccal towards Mesial Buccal cusp on #14. Upon removal of previous restoration and caries the Mesial Buccal cusp was fractured off and Mesial marginal ridge. In order to re-acquire an adequate axial wall angle for retention of the crown a core procedure was performed. . . .

Dentally necessary crown buildups are a benefit under the Petitioner's dental plan as "major restorative services." The coverage is described in the certificate (p. 37):

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 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:

Recommended Decision:

The MAXIMUS dentist consultant determined that the core buildup of tooth #14 that [was] performed on 12/23/14 was medically/dentally necessary for treatment of the member's condition.

Rationale:

* * *

... The MAXIMUS dentist consultant indicated that the radiographs provided for review show tooth #14 to have an existing moderately deep restoration present preoperatively. Clinical notes stated that this restoration had recurrent caries present, which would necessitate removal of the defective restoration prior to crown placement. The dentist consultant explained that ideal preparation for a tooth crown would extend up to two millimeters deep into the tooth. The consultant also explained that in this case, upon removal of the existing restorations, the recurrent caries would be expected [to] have extended well beyond this and would have compromised the proximal walls of the tooth preparation, which would have compromised the retention of the crown due to loss of tooth structure on the proximal and occlusal aspects. The literature substantiates that buildups are needed when there is significant loss of tooth structure due to decay or fracture. The dentist consultant indicated that as the crown on tooth #14 was approved for coverage with an existing, defective restoration and recurrent decay demonstrated in the information provided for review, the associated procedure of a crown buildup on tooth #14 met the standard of care as being medically necessary and not just for filler under the approved crown.

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 is dentally necessary and is therefore a covered benefit.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's March 2, 2015, final adverse determination. Guardian shall immediately cover the crown buildup on tooth #14 and shall, within seven days, furnish the Director with proof that 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:



Randall S. Gregg
Special Deputy Director