

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. 147304-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 12th day of May 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 13, 2015, ██████████ (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. The Director notified Guardian of the external review request and asked for the information used to make its final adverse determination. Guardian furnished the information 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 in the case, the Director assigned the matter to an independent medical review organization which provided its analysis and recommendation on May 4, 2015.

II. FACTUAL BACKGROUND

On December 11, 2014, the Petitioner had a crown buildup (also known as a core buildup) and a crown placed on tooth #15. Guardian denied coverage for both procedures but approved an alternate benefit for a two-surface routine filling.

The Petitioner appealed the benefit decision through Guardian's internal appeals process. At the conclusion of that process, Guardian affirmed its decision in a final adverse determination

issued February 10, 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 #15?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian said it denied coverage for the crown buildup and crown because tooth #15 "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 April 15, 2015, Guardian stated that, while coverage had been denied for the buildup and the crown, "a two surface routine filling alternate benefit was provided toward the crown procedure on 2/10/15 after appeal review." Alternate treatment benefits are described on page 26 of the certificate of coverage:

If more than one type of service can be used to treat a dental condition, we have the right to base benefits on the least expensive service which is within the range of professionally accepted standards of dental practice as determined by us.

Petitioner's Argument

On the request for external review form, the Petitioner wrote:

We are seeking the payment of services for the crown [Petitioner] had done on 12-11-14. We have (as a family) used Dr. Whitcomb's services for years [and] have always followed his educated recommendations. We feel his decision to give [Petitioner] a crown was warranted by the clinical finding [and] experience of Dr. Whitcomb.

In a letter dated February 23, 2015, accompanying the external review request, Petitioner's dentist wrote:

Tooth #15 presented with caries extending around the buccal and distal of tooth. Caries also under and around existing occlusal restoration. Buccal cusps were both lost due to caries. Core and crown build-up required to provide adequate support.

Director's Review

The certificate of coverage, on page 42, describes the circumstances under which coverage is available for crowns which the certificate classifies as "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 or bridge and only when necessitated by substantial loss of natural tooth structure.

The question of whether the crown buildup and crown on tooth #15 were medically/dentally necessary due to 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:

[T]he photographs and radiograph provided for review show that the member presented with an existing restoration of shallow to moderated depth. No significant recurrent caries were demonstrated on the radiograph...[P]hotographs showed that the tooth had moderate caries on the facial aspect at the cervical, which wrapped to the distal aspect of the tooth...[T]he photographs showed no cusp loss...[T]he photograph taken after the crown preparation shows a small area of recurrent decay on the occlusal aspect of the tooth towards the distal. The appeal letter stated that both buccal cusps were lost due to caries. However...this was not supported by the photographs provided for review. Medical necessity, as defined in the information provided in the case file, includes that the services must be provided in an economical fashion...[C]aries were shown on the facial aspect of the tooth at the gumline extending to the distal aspect of the tooth and the photograph confirmed that the cusp was intact...[The pictures] also show what appeared to be relatively shallow caries on the occlusal aspect of the tooth...[W]ith no extensive caries shown on the radiographs and no cusp loss, it appeared that conventional restorations would have been adequate to restore the tooth...[W]ith no extensive caries demonstrated and no cusp loss, the medical necessity for a crown on tooth #15 was not established and that as a core buildup is predicated on the associated procedure of a crown, with the crown not being shown to be medically necessary in this case, the associated procedure of a core buildup was also not shown to be medically necessary.

Pursuant to the information set forth above and available documentation...the crown and core buildup that performed for tooth #15 on 12/11/14 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, finds that Guardian's denial of coverage for the crown buildup and crown on tooth #15 as not medically/dentally necessary is consistent with the terms of the certificate.

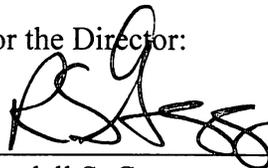
V. ORDER

The Director upholds Guardian Life Insurance Company of America's February 10, 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:



Randall S. Gregg
Special Deputy Director