

**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. 148183-001**

**Guardian Life Insurance Company of America,**

**Respondent.**

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**Issued and entered**  
**this 7<sup>th</sup> day of July 2015**  
**by Randall S. Gregg**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 4, 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 (Guardian). The Director 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 June 10, 2015. After a preliminary review of the material submitted, the Director accepted the request on June 11, 2015.

To address the medical issues in the case, the Director assigned it to an independent medical review organization which provided its analysis and recommendation on June 24, 2015.

**II. FACTUAL BACKGROUND**

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

On October 3, 2014, the Petitioner had crown (core) buildups and new crowns placed on teeth #18 and #19. Guardian covered the crowns but denied coverage for the crown buildups.

The Petitioner appealed the denial through Guardian's internal appeals process. At the conclusion of that process, Guardian affirmed its decision in a final adverse determination dated April 11, 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 buildups on teeth #18 and #19?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, Guardian told the Petitioner that it had denied coverage for the crown buildups because the teeth had "sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown."

In a letter dated June 10, 2015, submitted for this external review, Guardian further explained its denial of coverage:

Three claim reviews have been performed on these procedures. Based on review of the clinical information provided, in all 3 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 10/15/2014, 2/5/2015 and 4/13/2015.

#### Petitioner's Argument

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

I am asking for Guardian . . . to reimburse me for \$180.00. Guardian did not approve the charge for the D2950 build-ups for both crowns even though the proven evidence shows there were cracks and fractures. [My dentist] . . . submitted a grievance to Guardian three times and it was denied. Please review supporting evidence. With your help to resolve this grievance I hope the \$180.00 will be covered.

The Petitioner's dentist's office provided this narrative to explain the need for the crown buildups:

After removing the recurrent decay from the old, large failing amalgam restorations on both #18 and #19, due to fractures and cracks present; Significant deterioration with cracks and fractures were noted which were undermining and weakening the lingual cusps of both molars. #18: significant DL internal fracture

present noted at excavation of decay. #19 MLD fractures present noted on intraoral camera pics pre-op and at excavation of decay. The final intraoral camera pictures noting complete removal of #18 and #19 lingual cusps were not available.

Destruction of supporting tooth structures due to recurrent decay resulted in necessity for the D2950 build-ups in order to restore full stability and proper function by supporting new crowns. Left untreated, the patient would subsequently lose the teeth and compromise his dental function.

### Director's Review

The certificate covers crown buildups when they are medically necessary. The benefit is described in the certificate (p. 87):

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 buildups on teeth #18 and #19 were medically (dentally) necessary was presented to an independent review organization (IRO) for analysis and a recommendation 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. The IRO report included the following recommendation and analysis:

#### **Recommended Decision:**

The MAXIMUS dentist consultant determined that the crown buildups performed for teeth #18 and 19 on 10/3/14 were medically/dentally necessary for treatment of the member's condition.

#### **Rationale:**

The MAXIMUS independent dentist consultant, who is familiar with the medical management of patients with the member's condition, has examined the medical record and the arguments presented by the parties.

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The MAXIMUS dentist consultant indicated that the radiographs and photographs provided for review show teeth #18 and 19 to have existing moderately deep restorations present preoperatively with recurrent caries evident on the photographs, but not prominent on the radiographs provided. The dentist consultant also indicated that several areas of enamel fractures were also shown on the photographs. The consultant explained that ideal preparation for a crown would extend up to two millimeters deep into the tooth. The dentist consultant also explained that upon removal of the existing restorations, the recurrent caries would *have* been expected to extend well beyond this level and would have compromised the proximal walls of the tooth preparation and compromised the retention of the crowns due to loss of tooth structure on the proximal and occlusal aspects.

The MAXIMUS dentist consultant noted that the photographs provided for review confirm the presence of recurrent caries in this case with post-operative photographs demonstrating that the cavity preparations approached within 2mm of the pulp radiographically upon caries removal. The literature substantiates that buildups are needed when there is significant loss of tooth structure due to decay or fracture. The dentist consultant explained that the photographs and radiographs provided for review confirm significant loss of tooth structure in this member's case. The Health Plan approved coverage for the crowns for teeth #18 and 19. The dentist consultant indicated that with the existing defective restorations and recurrent decay demonstrated in this case, the associated procedures of crown buildups on teeth #18 and 19 met the standard of care as being medically necessary and were not just filler under the approved crowns.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that the crown buildups performed for teeth #18 and 19 on 10/3/14 were medically/dentally 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 recommendation here 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 the crown buildups on teeth #18 and #19 were dentally necessary and are therefore covered benefits.

**V. ORDER**

The Director reverses Guardian Life Insurance Company of America's April 11, 2015, final adverse determination. Guardian shall immediately cover the crown buildups on teeth #18 and #19 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 its 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.

Patrick M. McPharlin  
Director

For the Director:



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Randall S. Gregg  
Special Deputy Director