

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

In the matter of:

██████████
Petitioner

v

Guardian Life Insurance Company of America
Respondent

File No. 148403-001

Issued and entered
this 20th day of July 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 18, 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 that is underwritten by Guardian Life Insurance Company of America, (Guardian). 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 June 23, 2015. After a preliminary review of the material submitted, the Director accepted the request on June 25, 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 July 8, 2015.

II. FACTUAL BACKGROUND

On February 10, 2015, the Petitioner had a crown buildup and a crown placed on tooth #2. Guardian provided coverage for the crown but denied coverage for the crown buildup, ruling the procedure 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 May 23, 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 #2?

IV. ANALYSIS

In its final adverse determination, Guardian denied coverage for the crown buildup on tooth #2 stating, that the tooth “appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown.”

The Petitioner’s request for external review states:

Tooth #2 fractured DL cusp large old amalgam, core is necessary for proper crown retention. Core [and] crown needed for proper restoration, insufficient tooth structure.

The Petitioner’s certificate (page 108) provides coverage for dentally (medically) necessary crown buildups:

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 #2 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 in active practice. The IRO reviewer’s report included this analysis and recommendation:

The enrollee presented with a tooth with an existing occlusal restoration on tooth #2 and a fractured DL cusp that was treatment planned for a crown. On review of the x-rays and photographs it is apparent that minimal tooth structure was missing from the fractured cusp and that the existing restoration was of rather shallow depth. Even when the old restoration is removed, the amount of missing structure after preparation for a crown would be minimal, as approximately two millimeters of structure is removed just for the crown preparation itself, leaving a considerable amount of structure for retention of the final crown. According to Christensen in his many articles, buildups are to be considered when there is less than 50% of remaining structure for that crown to be retained. In this instance, there is certainly more than 50% structure remaining and minimal missing following crown preparation. [Christensen G. Frequently encountered errors in tooth

preparation for crowns. JADA October 2007 Volume 138, Issue 10, Pages 1373-1375.]
The fact the cusp fractured is an indication for a crown, but there is certainly enough remaining structure to retain that crown without a buildup. Retention of a final crown would not be significantly increased by placing a core buildup in this circumstance.

* * *

Therefore, crown (core) build up on tooth #2 is not medically necessary.

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 #2 was not medically necessary and is therefore not covered under the terms of the certificate.

V. ORDER

The Director upholds Guardian Life Insurance Company of America's May 23, 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.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director