

**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. 148436-001**

**Guardian Life Insurance Company of America**  
**Respondent**

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**Issued and entered**  
**this 15<sup>th</sup> day of July 2015**  
**by Joseph A. Garcia**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 22, 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 24, 2015. After a preliminary review of the material submitted, the Director accepted the request on June 29, 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 10, 2015.

**II. FACTUAL BACKGROUND**

On March 16, 2015, the Petitioner had a crown buildup placed on tooth #30. Guardian denied coverage and 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 28, 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 #30?

#### IV. ANALYSIS

In its final adverse determination to the Petitioner, Guardian denied coverage for the crown buildup, saying tooth #30 “appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown.”

Dentally necessary crown buildups are a benefit under the Petitioner’s dental plan as “major dental services.” The coverage is described in the certificate on page 40:

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

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 #30 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 general dentist who is in active practice. The IRO reviewer’s report included the following analysis and recommendation:

Tooth #30 had a crown placed in the past. The existing crown suffered recurrent decay and required replacement. The provider indicated that the distal and buccal areas of the tooth were decayed and once the old crown was removed the remaining amalgam restoration under the crown had to be removed leaving a “shell” of tooth structure which required support; therefore, a core build-up was required, therefore, medically necessary.

The enrollee suffered re-decay around the margins of the old crown placed on tooth #30. There was an old amalgam restoration which also had recurrent decay under the old crown that required removal. The core structure (interior dentin) was compromised by the loss of tooth structure leaving a “shell” of tooth structure. The buccal and distal areas of the “shell” were compromised due to recurrent caries. The enrollee required a core build-up and crown to properly restore tooth #30.

During tooth preparation for a crown, the dentist determines if sufficient tooth structure is available to provide support. The clinical terms normally referred to regarding the shape of the preparation are the resistance form and retentive form. Many times small voids are filled in to provide a smoother surface or eliminate undercuts. These “filled-in” areas should not be considered a core build-up. When insufficient tooth structure is available to obtain resistance and retentive form; a buildup is appropriate. In this case, previous reduction of tooth structure was performed for the existing crown, center dentinal core was reduced during removal of an old amalgam restoration, and decay on the distal and buccal

areas further reduced tooth structure. Tooth #30 was now a “hollow shell” and required a core build-up to properly provide resistance and retentive form for the new crown....

It is the recommendation of this reviewer that the denial issued by Guardian Life Insurance Company of America for the build-up of crown (core) on tooth #30 be overturned. [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 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 #30 is dentally necessary and is therefore a covered benefit.

#### V. ORDER

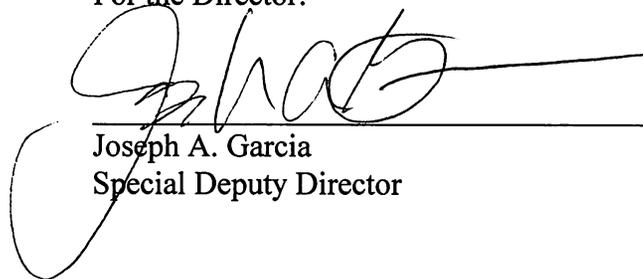
The Director reverses Guardian Life Insurance Company of America’s May 24, 2015, final adverse determination. Guardian shall immediately provide coverage for Petitioner’s crown buildup. See MCL 550.1911(17). Guardian shall, within seven days of providing coverage, provide the Director proof it has implemented this order.

To enforce this order, the Petitioner may report any complaint regarding its implementation the Department of Insurance and Financial Services, Health Plans Division, toll free 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:



Joseph A. Garcia  
Special Deputy Director