

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. 149027-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 27th day of August 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 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 August 7, 2015. After a preliminary review of the material submitted, the Director accepted the request on August 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 August 20, 2015.

II. FACTUAL BACKGROUND

On April 15, 2015, the Petitioner had a crown buildup and a new crown placed on tooth #21. Guardian denied coverage for both procedures.

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 July 7, 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 and crown?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian denied coverage for the crown because it only covers crowns when needed due to decay or injury and when the tooth cannot be restored with a routine filling and this tooth did not appear to have decay or injury. Guardian denied coverage for the crown buildup because

This tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay, or crown.

Petitioner's Argument

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

Tooth #21 was diagnosed as needing buildup and crown on 4/15/15. The distal lingual cusp was broken from deep occ/lingual decay. 1/3 of crown area remained after removal of decay.

Director's Review

Dentally necessary crowns are covered as major restorative services. The coverage is described in the certificate on page 36:

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 #21 were dentally 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 certified by the American Board of Oral and Maxillofacial Surgery, is a Fellow of the American Association of Oral and Maxillofacial Surgeons, and is in active practice. The IRO report included the following analysis and recommendation:

When more than one half of the coronal tooth structure on a full-crown tooth preparation is absent, building up the tooth structure with well-retained buildup material is desirable. If

more than one-half of the coronal tooth structure is gone, and there is not a two- to three-millimeter collar of sound tooth structure remaining around the gingival portion of the tooth preparation, a buildup is required. The buildup is used to increase tooth strength and crown retention.

* * *

A build up and crown may be indicated for this enrollee, but this cannot be confirmed with the documentation submitted for review. For a large restoration that fails, a crown would be indicated. However in this case, there is no substantiation from the provider for a crown. The only supporting documentation is a bitewing radiograph that is dark. It shows a restoration in the distal and occlusal of tooth #21. The radiographic appearance does not suggest that a crown is indicated. The provider states that only one third of the tooth is remaining, but this is not confirmed by clinical documentation. Based on the documentation submitted for review, the services are considered not dentally 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 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 and buildup on tooth #21 were not dentally necessary and therefore are not covered benefits.

V. ORDER

The Director upholds Guardian Life Insurance Company of America's July 7, 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