

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. 149110-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 21st day of August 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 31, 2015, ██████████ authorized representative of ██████████ (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 used to make its final adverse determination. Guardian submitted its response on August 4, 2015. After a preliminary review of the material submitted, the Director accepted the request on August 7, 2015.

To address the medical issue presented, the Director assigned the case to an independent medical review organization which provided its analysis and recommendation on August 21, 2015.

II. FACTUAL BACKGROUND

On May 9, 2015, the Petitioner had a crown buildup placed on tooth #14. 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 July 14, 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 #14?

IV. ANALYSIS

In its final adverse determination, Guardian denied coverage for the crown buildup, because tooth #14 “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 72:

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 #14 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:

[T]he radiograph and photograph provided for review show tooth #14 to have an existing amalgam filling of moderate to large size with a crack observed across the occlusal surface and breakdown of the margins of the filling. Ideal preparation of a tooth for a crown would extend up to two millimeters deep into the tooth....[I]n this case, upon removal of the existing restoration, the recurrent caries would be expected to extend well beyond this depth and would compromise the buccal cusps of the tooth preparation, compromising the retention of the crown due to loss of tooth structure on the facial and occlusal aspects....[T]he photographs provided confirm the presence of recurrent caries with a high likelihood that the preparation approached within 2 mm of the pulp radiographically upon removal of the caries. The literature substantiates that buildups are needed when there is significant loss of tooth structure due to decay or fracture, which was confirmed by the provided radiograph and photograph in this case....[A]s the crown for tooth #14 was approved for coverage by the Health Plan and there was an existing defective restoration and recurrent decay demonstrated, the associated procedure of a crown buildup for tooth #14 met the standard of care as being medically necessary and was not just filler under the approved crown.

Pursuant to the information set forth above and available documentation...the crown buildup of tooth #14 performed on 5/9/15 was medically/dentally necessary for treatment of the member's condition.

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. The Director cannot discern any reason why the IRO recommendation should be rejected in the present case.

The Director finds that the crown buildup on tooth #14 is dentally necessary and is therefore a covered benefit.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's July 14, 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:



Randall S. Gregg
Special Deputy Director