

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. 149126-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 2nd day of September 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for a crown buildup by his dental insurance carrier. On August 3, 2015, ██████████ DDS, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of the denial 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 immediately 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 6, 2015. After a preliminary review of the material submitted, the Director accepted the Petitioner's request on August 10, 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 August 24, 2015.

II. FACTUAL BACKGROUND

The Petitioner's dental benefits are defined in a certificate of group coverage issued by Guardian (the certificate).

On May 1, 2015, the Petitioner had crown (core) buildups on teeth #18 and #30. Guardian covered the crown buildup on tooth #18 but denied coverage for the crown buildup on tooth #30.

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 15, 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

Respondent's Argument

In its final adverse determination, Guardian said it denied coverage because tooth #30 "appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown."

Petitioner's Argument

In a letter dated June 22, 2015, submitted with the request for an external review, the Petitioner's authorized representative wrote:

[The Petitioner] presents with . . . fractured posterior teeth. Clinical eval indicates fractured distal of #18 & fractured mesial #30. Both #18 & #30 present with recurrent decay. Treatment plan made for core build ups #18 #30 due to large existing restorations & necessity to remove recurrent decay. #30 specifically had a fractured ML cusp, extent of recurrent decay during excavation warranted future crown. Core build up involving MOBLD surfaces completed for #30 (and core build up #18) at this visit. Future crowns treatment planned for both #18 & #30 due to compromised integrity of tooth structure secondary to decay.

Director's Review

Dentally necessary crown buildups are a benefit under the certificate as "major restorative services." The coverage is described in the certificate (p. 88):

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 dentist who has been in active practice for more than 12 years and is familiar with the medical management of patients with the Petitioner's condition. The IRO reviewer's report included the following analysis and recommendation:

An appeal letter submitted by the member's dentist stated that tooth #30 had a large existing restoration with recurrent decay and a fractured ML cusp. The MAXIMUS dentist consultant noted that the preoperative radiographs show tooth #30 to have an existing restoration of shallow to moderate depth. The dentist consultant also indicated that a radiolucency is visible on the mesial, but the extent of this cannot be evaluated. The consultant explained that recurrent caries could not be easily identified on the radiographs. The standard of care would provide that upon removal of the existing restoration, any recurrent caries would need to be removed. However, the dentist consultant explained that with an existing restoration of shallow to moderate depth and no notation quantifying caries other than in the appeal letter, it cannot be determined that this tooth required a crown buildup rather than filler to replace the missing tooth structure. The consultant also explained that with minimal caries noted on the radiograph provided for review, a relatively small existing restoration and no evidence of the extent of recurrent decay, the medical necessity for a crown buildup was not demonstrated in this case.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that crown buildup for tooth #30 performed on 5/1/15 was not 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 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 was not dentally necessary and is therefore not a covered benefit.

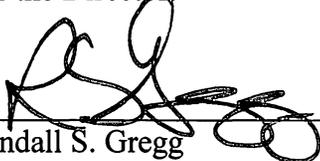
V. ORDER

The Director upholds Guardian Life Insurance Company of America's July 15, 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