

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. 149370-001

Issued and entered
this 24th day of September 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On August 14, 2015, ██████████, on behalf of her of minor child ██████████ (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 request was incomplete. The required additional information was provided on August 27, 2015.

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 submitted its response on September 1, 2015. The Director accepted the Petitioner's request for review on September 3, 2015.

The Director assigned the case to an independent medical review organization to evaluate the medical issues in the case. The evaluation was submitted to the Director on September 15, 2015.

II. FACTUAL BACKGROUND

On December 30, 2014, the Petitioner had a porcelain crown placed on tooth #9. Her dentist charged \$705.00 for the service. Guardian denied coverage and the Petitioner appealed through Guardian's internal grievance process. Guardian maintained its denial in a final adverse

determination dated July 31, 2015. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did Guardian correctly deny coverage for the Petitioner's crown on tooth #9?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian stated that it denied coverage because the tooth "does not appear to have decay or injury. The dental plan only covers crowns, inlays, onlays and veneers when needed due to decay or injury and when the tooth cannot be restored with a routine filling."

In a September 1, 2015, letter submitted for this external review, Guardian further explained its decision:

The dental plan provides that all covered dental services must be usual and necessary treatment for a dental condition, with proof of loss substantiated through reviews of diagnostic radiographs and other supporting materials. Reviews are performed by licensed dentists acting in a consultant capacity. Pretreatment review is recommended for proposed treatment exceeding \$300 to ensure that all parties are aware of the projected available plan benefit and associated patient liability prior to work being performed. No pretreatment request was received prior to receipt of the claim for completed treatment.

Two separate claim reviews have been performed on this crown procedure. Based on review of the clinical information provided, in both reviews the consultants advised that this tooth does not appear to have decay or injury. According to the terms of the plan, Guardian issued denials on 4/23/2015 and 7/31/2015.

Petitioner's Argument

In request for external review, the Petitioner's mother wrote:

Patient needed a porcelain crown on her front tooth #9. Due to the adult tooth being malformed with no natural enamel when it came in at six years old. The tooth has always been sensitive and had no enamel with malformation.

In a letter of July 3, 2015, the Petitioner's dentist wrote:

#9 crown was placed on 12/30/2014 in our office due to decay and malformed

enamel. We previously sent correspondence that included x-rays and clinical notes validating the findings of decay and that [Petitioner] has suffered from periodic sensitivity with this tooth. Enclosed you will find a report, dated 2/7/2012, from [Petitioner's orthodontist] that clearly states his findings of malformed enamel regarding #9.

Director's Review

The certificate covers dentally necessary crowns as "major restorative services." The coverage is described in the certificate on page 61:

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.

The question of whether the crown on tooth #9 was 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's reviewer is a licensed dentist in active practice who is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

An appeal letter from the member's treating dentist stated that the crown for tooth #9 was placed due to decay and sensitivity. However...the clinical notes provided for review state nothing about decay and only state that the dentist recommended a crown. A post-referral letter from the member's treating orthodontist stated that the member had malformed enamel and would be a candidate in the future for an improved restoration.

[T]he radiographs provided for review appear to show preoperative changes in tooth shape consistent with either prior restoration or enamel changes....[T]he radiographs do not show any extensive decay or breakdown of the tooth in question....[M]edical necessity includes, by definition, that the services provided are economical....[W]hile this tooth may have shown aesthetic improvement with the placement of a crown, with no notation of decay or prior restoration in the clinical notes and no evidence of decay on the radiographs, it has not been demonstrated that the member could not have been treated in more conservative manner to address the concerns regarding sensitivity and aesthetics.

Pursuant to the information set forth above and available documentation...the crown for tooth #9 performed on 12/30/14 was not 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. In addition, the IRO's recommendation is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO's recommendation should be rejected in the present case finds that the Petitioner's crown on tooth #9 was not medically/dentally necessary and therefore is not covered under the terms of the certificate.

V. ORDER

The Director upholds Guardian's July 31, 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 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 Michigan 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