

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. 150002-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 28th day of October 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for a dental crown buildup by her dental plan, Guardian Life Insurance Company of America (Guardian).

On September 22, 2015, she filed a request with the Director of Insurance and Financial Services for an external review of that 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. 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 September 25, 2015. After a preliminary review of the material submitted, the Director accepted the request on September 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 October 9, 2015.

II. FACTUAL BACKGROUND

The Petitioner's dental benefits are defined in a certificate of coverage issued by Guardian

(the certificate).

On July 27, 2015, the Petitioner had a crown buildup and a crown placed on tooth #3. Guardian covered the crown but denied coverage for the crown buildup, saying it was not necessary. Guardian had initially denied coverage for the crown buildup on October 1, 2014, when the Petitioner's dentist asked for a pre-treatment review.

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 August 18, 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 #3?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian denied coverage for the crown buildup, saying tooth #3 "appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown."

In a letter dated September 25, 2015, submitted for this external review, Guardian further said:

Two separate claim reviews have been performed on this procedure. Based on review of the clinical information provided, in both reviews the consultants advised that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for a crown. According to the terms of the plan Guardian issued denials on 10/1/2014 (benefit predetermination) and 8/18/2015 (completed service claim).

Petitioner's Argument

On the request for an external review request form, the Petitioner explained:

I had an emergency root canal on a tooth 3 years ago & was told I needed a crown on that tooth, but since I was moving out of state, I elected not to proceed at that time. Since then I saw a dentist in [REDACTED] & a dentist here in [REDACTED] who both urged me that I needed a crown on that tooth. This is a covered benefit & I am now finding out is denied! Obviously I am looking to have this procedure

covered since 3 different dentists have all recommended this.

In a letter to Guardian dated September 1, 2015, that was submitted with the request for an external review, the Petitioner's dentist wrote:

The core build-up was necessary for the retention of the crown on tooth #3. An existing large core was removed due to existing caries on DOL [*disto-occluso-lingual*]. As a result, there was a large hole in the tooth and less than 80% of the tooth structure remained.

Director's Review

Dentally necessary crown buildups are a benefit under the Petitioner's dental plan as "major restorative services." The coverage is described in the certificate (p. 113):

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 #3 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 in active practice. The IRO reviewer's report included the following analysis and recommendation:

Reviewer's Decision and Principal Reasons for the Decision:

It is the determination of this reviewer that the crown (core) build up on tooth #3 was not medically necessary for the treatment of the enrollee's condition.

Clinical Rationale for the Decision:

Clinical indications for D2950 (core build-up, including any pins) include having more than one-half (50%) of the natural tooth clinical crown destroyed by caries, previous restoration(s), or other trauma. This loss of natural tooth structure is often considered equivalent to the loss of two cusps for a molar tooth (such as molar tooth #3), as the core build-up is to provide retention and strength for a full-veneer crown procedure when insufficient natural tooth structure is present.

Moreover, the D2950 core build-up is not to be used as “a filler to eliminate any undercut.”

Images and provider narrative submitted for review show completed endodontic therapy at tooth #3 with a disto-occluso-lingual (DOL) core build-up. The provider describes caries at this DOL core build-up, further citing that the core was removed, leaving less than 80% of natural tooth structure, followed by replacement of the core build-up. Clinical conditions as described by the provider do not substantiate an indication for the core build-up. Therefore, the crown (core) build up was not medically 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 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, finds that the crown buildup on tooth #3 is not dentally necessary and therefore, is not a covered benefit.

V. ORDER

The Director upholds Guardian Life Insurance Company of America’s August 18, 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