

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. 150761-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 10th day of December 2015
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

██████████ (Petitioner) was denied coverage for a crown on tooth #5 by his dental plan, Guardian Life Insurance Company of America (Guardian).

On November 6, 2015, ██████████, DDS, the Petitioner's authorized representative, 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 it used to make its final adverse determination. Guardian furnished the information on November 6, 2015. After a preliminary review of the material submitted, the Director accepted the request on November 16, 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 November 25, 2015.

II. FACTUAL BACKGROUND

The Petitioner's dental benefits are defined in a certificate of group insurance issued by Guardian entitled *Your Group Insurance Plan Benefits* (the certificate).

On August 11, 2015, the Petitioner had a crown placed on tooth #5 (procedure code

D2752). Guardian denied coverage for the crown but provided coverage for an alternate benefit of a two-surface amalgam restoration (procedure code D2150).

The Petitioner appealed the denial of the crown through Guardian's internal appeals process. At the conclusion of that process, Guardian affirmed its decision in a final adverse determination dated October 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 on tooth #5?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination to the Petitioner, Guardian said:

On 9/28/15 your grievance for D2752 performed on 8/11/15 was received.

Coverage for these services were denied.

For the following teeth and/or quadrants: 05

- This tooth does not appear to have decay or injury that would require a crown, inlay, onlay, or veneer. An alternative benefit of D2150 has been considered. 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 November 6, 2015, letter submitted for this external review, Guardian also 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 the tooth does not appear to have decay or injury that would require a crown, and that the tooth can be restored to professional adequacy with a routine 2 surface amalgam filling. According to the terms of the plan Guardian issued this amalgam filling alternate benefit on 8/5/2015 (benefit determination) and 10/15/2015 (completed service claim/appeal).

Petitioner's Argument

On the request for external review form, the Petitioner's authorized representative wrote:

Tooth # 5 had a huge filling that was fractured. Once filling was removed there was not enough tooth enamel left to support a conventional filling so a crown had to be done. The fracture of the filling [is] not visible on x-ray.

In a note dated September 3, 2015, written on an explanation of benefits statement, the

Petitioner's dental office wrote to Guardian:

Please reconsider claim. Moderate decay is under buccal gingival tissue – unable to visualize on x-ray. #5 is unable to have conventional filling due to marginal integrity.

Director's Review

The certificate (p. 48) covers crowns as “major restorative service” when they are dentally necessary “because of decay or injury, and only when the tooth cannot be restored with amalgam or composite filling material.”

The certificate also has an “alternate treatment” provision (p. 31; amended by a rider on p. 82) that says:

If more than one type of service can be used to treat a dental condition, we have the right to base benefits on the least expensive service which is within the range of professionally accepted standards of dental practice as determined by us.

Instead of a crown, Guardian said it would cover an alternate treatment of a two-surface amalgam filling on tooth #5 because the tooth did not warrant a crown. The question of whether it was dentally (medically) necessary to place a crown on tooth #5 was presented to an independent review organization (IRO) 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 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 placed on tooth #5 was not medically necessary for the treatment of the enrollee's condition.

Clinical Rationale for the Decision:

* * *

In the documentation submitted for review, the x-ray shows tooth #5 (apparently #4 missing with #6 mesial to the remaining premolar) with a one (1) surface restoration and possible small distal decay. The provider mentions a fracture of the restoration, and that following removal of the filling and decay, that there was insufficient remaining enamel to restore the tooth without a crown. From reviewing the x-ray, there is no extensive decay notable on the film, and no apparent need to place a full coverage crown on the tooth. There is no indication on the x-ray or in any notes that there was a compromised cusp that was in risk of fracture. With only one (1) surface filling present on the tooth, and some noted buccal decay at or below the gingival margin in notations on claim forms, there is

no indication that a full coverage restoration is required. The provided description of the case does not correlate with the supplied x-ray. Therefore, for the reasons noted above, the crown placed on tooth #5 was not medically necessary for this enrollee.

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 on tooth #5 was not dentally necessary and is therefore not a covered benefit.

V. ORDER

The Director upholds Guardian Life Insurance Company of America's October 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