

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. 152562-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 4th day of April 2016
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

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

On March 7, 2016, ██████████, the Petitioner's authorized representative, filed a request with the Director of Insurance and Financial Services for an external review of Guardian's 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 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 March 11, 2016. After a preliminary review of the material submitted, the Director accepted the request on March 14, 2016.

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 March 24, 2016.

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 November 5, 2015, the Petitioner had a crown (or core) buildup performed on tooth #18 (procedure code D2950). Guardian denied coverage for the procedure.

The Petitioner appealed the denial through Guardian's internal appeals process. At the conclusion of that process, Guardian affirmed its decision in a final adverse determination dated January 13, 2016. 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 #18?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian said:

On 12/21/15 your grievance for D2950 performed on 11/05/15 was received.

Coverage for these services were denied.

For the following teeth and/or quadrants: 18

- This tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown.

In a March 11, 2016 letter sent to DIFS in response to the external review, Guardian also stated in part:

Two separate claims 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 an indirect restoration. According to the terms of the plan Guardian issued denials on 12/4/2015 and 1/13/2016.

Petitioner's Argument

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

Seeking payment for necessary treatment on patient.

In a note to Guardian dated December 15, 2015, the authorized representative also indicated:

As you can see on the radiograph the distal buccal portion of the tooth #18 is broken off.

There is not enough adequate tooth structure to retain a crown without placing a core first, more than ¾ of the clinical crown was missing once the amalgam, caries and fractures were removed.

Director's Review

The certificate covers crown buildups as “major restorative services” when they are dentally necessary. The coverage is described in the certificate (p. 38):

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. . . .

* * *

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 #18 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 clinical practice. The IRO report included the following analysis and recommendation:

Reviewer's Decision and Principal Reasons for the Decision:

Question: Was the crown build up provided the enrollee on tooth #18 medically (dentally) necessary for the treatment of her condition?

No. It is the determination of this reviewer that the crown build up on tooth #18 was not medically (dentally) 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 of the natural tooth clinical crown having been destroyed by caries, previous restorations, or other trauma. This loss of natural tooth structure is often considered equivalent to the loss of two (2) cusps for a molar tooth (such as tooth #18), in that the core build-up is to provide retention and strength for the 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.”

Clearly, the ‘gold standard’ in a clinical scenario such as this would be to see an x-ray and photograph of tooth #18 following removal of extant restoration and caries. This would exhibit clinical conditions and allow a more precise determination of clinical indications for a D2950 core buildup.

Per the documentation submitted for review, the provider clinical notes on November 5, 2015, the dated of service (DOS), indicate that a core was placed but adds no further description. At a later date, the provider narrative (dated December 15, 2015 (over a month later)) describes ¾ of tooth structure being absent following removal of restoration and caries. Clinical notes state that the core was placed. However, clinical notes provide neither evidence not clinical indication for the D2950 core buildup.

The preoperative x-ray of tooth #18 shows large mesio-occlusal-distal (MOD) restoration with the occlusal aspect of the distobuccal cusp not visible. Although the December 15, 2015 provider narrative states that the mesial buccal aspect of the tooth was broken off, asserting that this is evident by viewing the x-ray, this is not readily evident in the x-ray submitted for review. The clinical notes provide neither evidence nor clinical indication for the D2950 core buildup. Therefore, for the reasons noted above, the crown buildup on tooth #18 was not medically (dentally) necessary for the enrollee's condition in that established clinical criteria were not shown. [References 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 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 buildup on tooth #18 was not dentally necessary and is therefore not a covered benefit under the certificate.

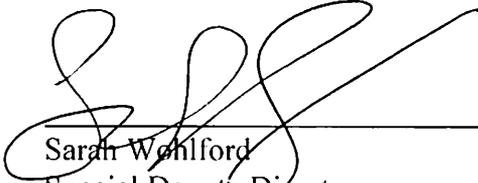
V. ORDER

The Director upholds Guardian Life Insurance Company of America's January 13, 2016, 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:



Sarah Wohlford
Special Deputy Director