

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. 153129-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 10th day of May 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

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

On April 7, 2016, ██████████, 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 group dental coverage through a plan 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 April 12, 2016. After a preliminary review of the material submitted, the Director accepted the request on April 14, 2016.

To address the medical issues in the case, the Director assigned it to an independent review organization which provided its analysis and recommendation on April 27, 2016.

II. FACTUAL BACKGROUND

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

On January 18, 2016, the Petitioner had a crown (core) build up (procedure code D2950) on tooth #15. 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 March 15, 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 build up on tooth #15?

IV. ANALYSIS

Petitioner's Argument

The Petitioner included with the external review request a copy of Guardian's explanation of benefits dated February 10, 2016, which has this handwritten notation:

Resubmitting with a bitewing to show how large the previous amalgam was. Tooth was fractured mesial-buccally and there was a large fracture in the distal. Tooth was causing pain on biting due to fracture spreading and sensitive to temperature. After removal fractures & previous restoration, there was inadequate structure to retain a crown so it was necessary to place a core first. About 80% of the clinical crown was gone.

Respondent's Argument

In its final adverse determination, Guardian stated:

On 02/26/16 your grievance performed on 01/18/16 was received.

Coverage for these services were denied.

For the following teeth and/or quadrants: 15

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

In a letter dated April 12, 2016, submitted for this 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 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 2/10/2016 and 3/15/2016.

Director's Review

Coverage for crown buildups is described in the certificate under "Major Restorative Services" (p. 41):

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 #15 was medically (dentally) 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 and is in active clinical practice. The IRO report included the following analysis and recommendation:

Recommended Decision:

The MAXIMUS dentist consultant determined that the core build-up performed for tooth #15 on 1/18/16 was medically/dentally necessary treatment of the member’s condition.

Rationale:

* * *

The member presented with an existing composite restoration of moderate depth on tooth #15. A notation was made of a fracture on the distal and mesio-buccal with pain on biting. The MAXIMUS dentist consultant explained that with evidence of a defective restoration and approval for a crown, the standard of care would dictate removal of the previous restoration and any recurrent caries prior to crown fabrication. The dentist consultant also explained that ideal preparation for a crown would extend up to 2 millimeters deep into the tooth. The consultant indicated that upon removal of the existing restoration, the breakdown and recurrent caries would have been expected to extend well beyond this depth and would have compromised the occlusal and facial aspects of the tooth preparation, compromising the retention of the crown due to loss of tooth structure. The dentist consultant also indicate that the literature substantiates that buildups are needed when there is significant loss of tooth structure due to decay or fracture, which is confirmed by the radiograph submitted for review in this case.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that the core build-up performed for tooth #15 on 1/18/16 was medically / dentally necessary treatment of the member’s condition. [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 #15 was medically (dentally) necessary and is therefore a covered benefit.

V. ORDER

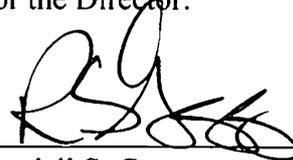
The Director reverses Guardian Life Insurance Company of America's final adverse determination of March 15, 2016. Guardian shall immediately cover the Petitioner's January 18, 2016, crown buildup and shall, within seven days of providing coverage, furnish the Director with proof it implemented this Order. See MCL 550.1911(17).

To enforce this Order, the Petitioner may report any complaint regarding its implementation to the Department of Insurance and financial Services, Health Care Appeals Section, at this toll free telephone number: (877) 999-6442.

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