

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. 154201-001

Guardian Life Insurance Company of America,
Respondent.

Issued and entered
this 12th day of July 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

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

On June 17, 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 receives dental benefits through a group 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 June 22, 2016. After a preliminary review of the material submitted, the Director accepted the request on June 24, 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 July 8, 2016.

II. FACTUAL BACKGROUND

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

On March 3, 2016, the Petitioner had a crown (core) build up on tooth #30 (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 April 28, 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 #30?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian stated:

On 4/08/16 your grievance for D2950 [crown (core) buildup] performed on 03/03/16 was received.

Coverage for these services were denied.

For the following teeth and/or quadrants: 30

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

In a June 22, 2016, letter submitted for this external review, Guardian also stated in part:

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 3/25/2016 and 4/28/2016.

Petitioner's Argument

In the request for external review, the Petitioner's dentist stated:

A core filling was necessary for support of the crown. I removed decay where tooth was fractured and removed old filling - there was not enough tooth structure to support the crown so a core was necessary.

Director's Review

The certificate (p. 42) covers crown buildups as "Major Restorative Services" when they are dentally necessary:

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 #30 was dentally necessary 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 who has been in practice for more than 10 years. The IRO report included the following analysis and recommendation:

Recommended Decision:

The MAXIMUS dentist consultant determined that the core buildup of tooth #30 performed on 3/3/16 was medically necessary for treatment of the member's condition.

Rationale:

* * *

Coverage was approved for the crown, but denied for the core buildup with the reason that there appeared to be adequate tooth structure remaining to retain a crown. The MAXIMUS dentist

consultant indicated that the records provided for review shown tooth #30 to have a large existing restoration of small to moderate size with recurrent decay and an additional large area of decay present interproximally. The dentist consultant explained that the standard of care substantiated in the dental literature requires removal of any defective restorations and caries for placement of a crown. The consultant also explained that the ideal preparation would extend up to 2 millimeters deep in the tooth. The dentist consultant indicated that upon removal of existing restoration and interproximal caries present, the breakdown and recurrent carries would have been expected to extend well beyond this depth and would have compromised the occlusal and distal aspects of the tooth preparation, compromising the retention of the crown due to loss tooth structure. The dental literature substantiates that buildups are needed when there is significant loss of tooth structure due to decay or fracture. The consultant indicated that the records provided for review substantiate this situation in the member's case. The dentist consultant explained that as the crown for tooth #30 was approved for coverage with an existing defective restoration requiring removal and significant caries present interproximally, the associated procedure of a crown buildup for tooth #30 meets the standard of care as medically necessary. [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 #30 was medically necessary and is therefore a covered benefit.

V. ORDER

The Director reverses Guardian Life Insurance Company of America's April 28, 2016 final adverse determination.

Guardian shall immediately, MCL 550.19911(17), cover the Petitioner's crown buildup on tooth #30 and shall, within seven days of providing coverage, furnish the Director with proof it has implemented this Order.

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 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:

A handwritten signature in black ink, appearing to read 'RS Gregg', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director