

**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. 154401-001

Guardian Life Insurance Company of America,

Respondent.

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Issued and entered  
this 4<sup>th</sup> day of August 2016  
by Randall S. Gregg  
Special Deputy Director

**ORDER**

**I. PROCEDURAL BACKGROUND**

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

On June 30, 2016, the Petitioner 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 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 July 1, 2016. After a preliminary review of the material submitted, the Director accepted the request on July 8, 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 22, 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 March 16, 2016, the Petitioner had a crown buildup (procedure code D2950) on tooth #31. 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 May 26, 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 #31?

### IV. ANALYSIS

#### Respondent's Argument

In its final adverse determination, Guardian said:

On 5/09/16 your grievance for D2950 [crown (core) buildup] performed on 03/16/16 was received.

Coverage for these services were denied.

For the following teeth and/or quadrants: 31

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

In a July 1, 2016 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 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 4/6/2016 (as a benefit predetermination) and 5/26/2016 (completed service claim).

#### Petitioner's Argument

On the external review request form the Petitioner's dentist explained:

Patient had a core buildup performed on tooth #31 - entire lingual wall of tooth had fractured off with recurrent decay. Upon removal of existing restoration there was extensive decay which then require a substantial core

buildup to provide support and retention for a subsequent crown. Placing a crown without first doing a core build up would have certainly been a failure.

### Director's Review

The certificate (p. 41) says:

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 #31 was medically (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 in active practice. The IRO report included the following analysis and recommendation:

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 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 #31), as 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 used as a "filler to eliminate any undercut".

Per the limited documentation submitted for review, the provider notes that the "entire lingual wall" of tooth #31 "had fractured off with recurrent decay" in the presence of an existing onlay. Therefore, based on the absence of two lingual cusps, D2950 core buildup is appropriate and medically necessary for this enrollee. [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 or core filling on tooth #31 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.

Guardian shall immediately cover the Petitioner's crown buildup on tooth #31 and shall within seven days of providing coverage, furnish the Director with proof it has implemented this Order. 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 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:



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Randall S. Gregg  
Special Deputy Director