

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. 148479-001

Metropolitan Life Insurance Company,
Respondent.

Issued and entered
this 30th day of August 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On June 24, 2015, ██████████ on behalf of her daughter, ██████████ (Petitioner), filed a request with the Director of Insurance and Financial Services for an external review 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 Metropolitan Life Insurance Company (MetLife). The Director immediately notified MetLife of the external review request and asked for the information it used to make its final adverse determination. After a preliminary review of the material submitted, the Director accepted the request on July 1, 2015.

The Director assigned the case to an independent medical review organization to evaluate the medical issues in the case as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The review organization's report was submitted to the Director on July 21, 2015.

II. FACTUAL BACKGROUND

In 2005, the Petitioner had a traumatic injury to tooth #9 for which she was treated with a root canal. She used bleaching, unsuccessfully, for the tooth discoloration caused by the injury. She continued to have problems with pain and discoloration.

On August 22, 2014, the Petitioner had a crown placed on tooth #9. Her dentist charged \$1,456.00. MetLife denied coverage and the Petitioner appealed through MetLife's internal grievance process. MetLife maintained its denial in a final adverse determination dated May 20, 2015. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did MetLife correctly deny coverage for the Petitioner's crown on tooth #9?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination to the Petitioner's dentist, MetLife explained its denial of coverage:

In accordance with generally accepted standard of dental care, a tooth must exhibit loss of tooth structure, resulting from fracture or decay, in order to qualify for benefits for a crown procedure.

Your request for reconsideration has been reviewed by our dental consultants, taking into account any additional information submitted. Unfortunately, this information does not offer a sufficient basis for altering our initial decision. Based on this review, no benefits can be allowed for this procedure over tooth number 9 because there appears to be insufficient evidence of extensive loss of tooth structure due to decay or fracture. The treating dentist was also contacted by our dental consultants to discuss the benefit determination.

Petitioner's Argument

In a letter dated June 17, 2015, accompanying the request for an external review, the Petitioner wrote:

Prior to having the crown put on my front tooth, and the root canal done, my tooth had become very sensitive. It was sensitive to touch. I would get a painful sensation if I were to tap it on a glass. There would be a painful sensation when I would eat foods that were hard or crunchy. I also could not eat things that were cold because they would cause the tooth to have a painful sensitive sensation. Occasionally, I would get a throbbing sensation in the tooth that would occur for no apparent reason and last for a long time. Since the crown and the root canal have been done my tooth is no longer sensitive to cold things or touching it upon objects. I have also noticed that there is no longer a throbbing sensation. I feel

that these two procedures were necessary to correct the problems I was having with my front tooth!

In a separate letter dated June 17, 2015, the Petitioner's mother wrote:

Way back in 2005 my daughter was struck in the face by a water bottle. After this happened her front, top, left tooth turned black. When we went to have it looked it we were informed that the roots were dead and the discoloration would remain. At this time the dentist did not feel the dead tooth needed to be removed. The dentist assured us that the tooth would be fine staying in place but that we should do a whitening procedure to lighten and give the tooth it's proper coloration back.

Fast forward a few years to the year 2009. The discoloration of my daughter's front tooth was back. It was now black again. When we talked about this with the dentist they again told us there was no need to pull or do anything with the tooth because it was doing fine. We were surprised by this. How can a dead tooth be fine after all these years? We trusted our dentist and asked what we could do now. It was suggested that we try whitening it again.

As the years passed we noticed my daughter's tooth deteriorating and losing it's color more quickly. In 2014 we asked our family dentist about the tooth and what could be done to help our daughter. At this time we were told that trying to whiten the tooth was no longer an option. We believed that the deterioration we were seeing was more than cosmetic. We asked about other options and were given three viable choices, veneer, crown, and possibly pulling the tooth. The dentist recommended that we go with a crown. It would be a more permanent solution that would take care of the dead tooth. This was no longer a solution for the pure cosmetic sake of the tooth. It was a solution to help lengthen the lifespan and viability of the dead tooth without having to pull it or do something more drastic.

I feel that the whitening procedures we had previously done were just masking a larger problem than initially diagnosed. This became even clearer to me when the dentist referred my daughter to an endodontist. After visiting the endodontist we learned that there was a bad infection at the root of this tooth and a root canal needed to be done in order to clear up the infection. This procedure was covered completely by our insurance. Since the root canal was covered, which was step four in this very long process, I am unclear as to why step three, the crown, is being denied. All of my daughter's procedures are connected. One thing lead to another and it seems obvious to me that the crown was something that was medically necessary for my daughter's well being.

In a letter of appeal letter dated March 12, 2015, the Petitioner's endodontist wrote:

Tooth #9 was endodontically retreated on February 23, 2015. In my professional opinion and best judgment I elected to retreat the tooth to establish drainage and validate in my capacity the assurance of a secure apical seal. This is the accepted procedure and appropriate protocol for an endodontist prior to the possibility of having to do a periapical surgical procedure, i.e., apicoectomy. In no way did I find any fault in the existing root canal. The case was by no means failing... [F]or whatever reason the case just did not take. There are way too many variables to be considered as was the biology and physiology which are variables in which we have no control.

Director's Review

The certificate provides coverage for dentally necessary crowns. The certificate defines "dentally necessary":

Dentally Necessary means that a dental service or treatment is performed in accordance with generally accepted dental standards as determined by Us and is:

- necessary to treat decay, disease or injury of the teeth; or
- essential for the care of the teeth and supporting tissues of the teeth.

Conversely, the certificate (page 41) excludes coverage for services that are not dentally necessary, "those which do not meet generally accepted standards of care for treating the particular dental condition, or which We deem experimental in nature."

The question of whether the crown was dentally necessary was presented to an independent review organization (IRO) for analysis. The IRO's reviewer is a licensed dentist in active practice who is familiar with the medical management of patients with the Petitioner's condition. The IRO report included the following analysis and recommendation:

[W]hile the standard of care does provide that a non-endodontically treated tooth must exhibit specific extensive loss of tooth structure to qualify for a crown procedure, the generally accepted standard differs for a tooth presenting with previous root canal treatment...[T]he radiographs provided for review show tooth #9 to have an endodontic access of significant size to reasonably show reduced prognosis of the tooth from the required endodontic access, justifying placement of a crown on tooth #9...[T]he required access for the endodontic treatment of this tooth required significant loss of tooth structure, which was demonstrated on the radiographs.

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 defer-

ence 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 analysis is based on extensive experience, expertise, and professional judgment. In addition, the IRO’s recommendation is not contrary to any provision of the Petitioner’s certificate of coverage. MCL 550.1911(15).

The Director, discerning no reason why the IRO’s recommendation should be rejected, finds that the Petitioner’s crown on tooth #9 was dentally/medically necessary and; therefore, is a covered benefit under the terms of the certificate.

V. ORDER

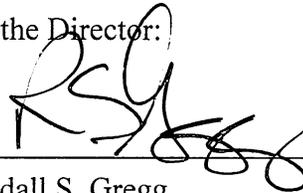
The Director reverses Metropolitan Life Insurance Company’s May 20, 2015 final adverse determination. Metropolitan Life Insurance Company shall immediately provide coverage for the Petitioner’s crown on tooth #9, and shall, within seven days of providing coverage, furnish the Director with proof it has 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 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 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 Michigan 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