

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████
Petitioner

v
Sun Life Assurance Company of Canada
Respondent

File No. 145164-001

Issued and entered
this 7th day of January 2015
by **Randall S. Gregg**
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 2, 2014, ██████████, on behalf of ██████████ (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 underwritten by Sun Life Assurance Company of Canada (Sun Life). The Director notified Sun Life of the external review request and asked for the information used to make its final adverse determination. Sun Life furnished its initial response on December 4, 2014. On December 9, 2014 after a preliminary review of the materials submitted, the Director accepted the request. On December 16, 2014 Sun Life provided additional information.

To address the medical issues in the case, the Director assigned the matter to an independent medical review organization which provided its analysis and recommendation to the Director on December 23, 2014.

II. FACTUAL BACKGROUND

On January 7, 2014, the Petitioner had a ceramic crown placed on tooth #10. Sun Life denied coverage, ruling the procedure was performed for cosmetic reasons and was, therefore, not a covered benefit.

The Petitioner appealed the decision through Sun Life's internal appeals process. At the conclusion of that process, Sun Life affirmed its decision in a final adverse determination dated September 25, 2014. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did Sun Life correctly deny coverage for the Petitioner's crown on tooth #10 as a cosmetic service?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination to the Petitioner, Sun Life wrote:

Based on the information provided, it is our Dentist Advisor's opinion the crown for Tooth Number 10 was performed for cosmetic purposes. According to the narrative submitted for review the treatment was rendered due to discoloration. Based on your Dental Agreement crowns are not covered for cosmetic reasons. Therefore payment for this claim is your responsibility.

Petitioner's Argument

The Petitioner's dentist, in a note dated May 22, 2014, wrote:

Tooth #10 became necrotic and began to darken – Referral to endodontist was indicated and #10 was treated with root canal. Patient did not like darkened tooth so E-max crown was done to change color and re-align the rotated tooth to Class I occlusion.

Director's Review

The certificate (page 20) provides coverage for crowns once per tooth per every five years when it is medically necessary. The certificate (page 22) excludes coverage for procedures that are cosmetic in nature.

The question of whether the ceramic crown was cosmetic 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 who has been in active practice for more than 15 years and is familiar with the medical management of patients with the member's condition. The reviewer's report included the following analysis and recommendation:

It is the determination of this reviewer that the dental services performed (crown for tooth #10) were cosmetic and not medically necessary for the treatment of the enrollee's condition.

* * *

The dental services performed for tooth #10, an Emax all ceramic crown, was not medically necessary given the enrollee's condition. The enrollee had endodontic treatment on tooth #10, after which the tooth had begun to discolor. The decision was to place a crown on the tooth. In the provider's note of medical necessity, the procedure

was done to correct the color change and provide correction for the slight rotation of the tooth in the arch. There appears to have been a straight line access to the root canal system, with minimal structural damage, and no prior existing restorations making the tooth structurally sound. Studies have shown that tooth strength following endodontic treatment is similar to that prior to such treatment. The medical necessity for a crown in this instance has not been demonstrated, although the treatment is within the standard of care as cosmetic treatment.

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 is based on experience, expertise, and professional judgment. Furthermore, it 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, accepts the IRO report and finds that the crown on tooth #10 was cosmetic and, therefore, not medically necessary. Cosmetic treatment is not a covered benefit under the Petitioner's certificate of coverage

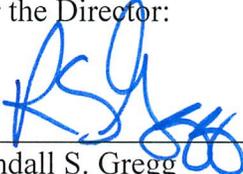
V. ORDER

The Director upholds Sun Life Insurance Company of America's September 25, 2014 final adverse determination. Sun Life is not required to provide coverage for the crown on Petitioner's tooth #10.

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.

Annette E. Flood
Director

For the Director:



Randall S. Gregg
Special Deputy Director