

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. 152119-001

United Concordia Dental Plan of the Midwest
Respondent

Issued and entered
this 2nd day of May 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On January 29, 2016, ██████████ (Petitioner) filed a complaint with the Consumer Services Division of the Department of Insurance and Financial Services. The complaint involved the denial of dental coverage by United Concordia Dental Plan of the Midwest (United Concordia). It was subsequently determined that the request should be processed as an external review under the Patient's Right to Independent Review Act, MCL 550.1951 *et seq.*

The Director notified United Concordia of the complaint and asked for the information used to make its determination. United Concordia furnished the information on March 11, 2016. The Director accepted the request for external review on April 4, 2016.

The Director assigned the complaint file to an independent medical review organization to analyze the medical issues in the case. The review organization submitted its analysis and recommendation to the Director on April 21, 2016.

II. FACTUAL BACKGROUND

On April 18, and May 13, 2015, the Petitioner had periodontal scaling and root planing services. United Concordia denied coverage. The Petitioner appealed the denial through United Concordia's internal appeals process. At the conclusion of that process, United Concordia affirmed its decision in a final adverse determination dated January 6, 2016. The Petitioner now seeks the Director's review of that final adverse determination.

III. ISSUE

Did United Concordia correctly deny coverage for the periodontal services provided on April 18, and May 13, 2015?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination to the Petitioner, United Concordia stated:

According to our guidelines, periodontal scaling and root planing is a benefit only when there is evidence on the x-rays of bone loss due to periodontal disease. The information we received does not meet our criteria for a benefit. Therefore, it is our Dentist Advisor's opinion that the [denial of coverage for] scaling and root planing for the full mouth is upheld.

Petitioner's Argument

In a letter dated December 9, 2015 to United Concordia, the Petitioner's dentist wrote:

According to the Academy of Periodontology guidelines, the measurements presented are indicative of a patient with moderate periodontitis [posterior dentition] with advanced periodontal disease of localized areas. Please refer to our summary below.

Summary:

1. The periodontal comparison report demonstrates a substantial increase in CAL [clinical attachment level] from 12-3-2013 to 4-18-2015 where % of the surfaces were over 5 mm
2. The periodontal charting completed on 4-18-2015 revealed:
 - 67% of the sites were bleeding
 - 42% of the sites had CAL of 4 mm
 - 19% of the sites had CAL of 5 mm – 8mm

The patient's radiographs provide a visual for mild to moderate inter-proximal bone loss around the posterior dentition, however, this two dimensional tool cannot provide an accurate representation of a three dimensional tooth. The surfaces with CAL between 6 mm to 8 mm are located on the buccal and lingual surfaces; therefore, radiographs are not effective in showing bone loss in these areas. The clinical notes provided document moderate bleeding upon probing and edematous tissue.

We are requesting the case be reviewed at this time by a periodontist. Once again, we are confused for the data presented strongly demonstrates "active" periodontitis according to the guidelines provided by the Academy of Periodontology. To perform only prophylactic care on this patient would be supervised neglect.

Director's Review

The United Concordia certificate of coverage, in its schedule of benefits (page 20), provides coverage for periodontal scaling and root planing if it is dentally necessary. The certificate defines dentally necessary as:

[a] dental service or procedure is determined by a dentist to either establish or maintain a patient's dental health based on the professional diagnostic judgment of the dentist and the prevailing standards of care in the professional community. The determination will be made by the dentist in accordance with guidelines established by the Company....

The question of whether the Petitioner's periodontal scaling and root planing were 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:

Per the documentation submitted for review, the enrollee presented with the signs of bone loss on the facial aspect of the lower molars, what appears to be blunting of the crestal bone interproximally, and increasing signs of inflammation (bleeding on probing) along with charted decrease in clinical attachment levels and increased pockets over a period of time. The periodontal charting that was supplied clearly indicates probing depths in excess of three mm in all quadrants, and on more than three teeth in each quadrant. The clinical notes indicated increasing bleeding on probing over time as well as increasing pocket depths. In this instance, from what can be determined from the supplied x-rays, there is blunting of the interproximal crestal bone showing a slight loss of attachment. There is recorded furcation involvement on teeth #3, 14, 15, 18, 19, 30 and 31 with the more significant attachment loss on teeth #15, 18 and 19, 30, and 31. A furcation exposure requires that there is bone loss as a normally erupted tooth would have the furcation submerged below the bone level with the cemento-enamel junction at or around the gingival margin. Where the furcation is probable, there must be some attachment loss. As there has been some loss of bone, although slight, along with increased probing depths and increased clinical attachment loss, scaling and root planing would be medically necessary.

Therefore, based on the documentation submitted for review and the current standards of care in the field, the periodontal treatment rendered on April 18, 2015 and May 13, 2015 was medically necessary for the treatment of the enrollee's condition.

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 dental services provided the Petitioner on April 18 and May 13, 2015 were medically/dentally necessary.

V. ORDER

The Director reverses United Concordia’s January 6, 2016, final adverse determination. United Concordia shall immediately provide coverage for the Petitioner’s April 18 and May 13, 2015, periodontal scaling and root planing. See MCL 550.1911(17). United Concordia shall, within seven days of providing coverage, furnish the Director 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, Healthcare Appeals Section, toll free 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