

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. 152825-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 20th day of April 2016
by Randall S. Gregg
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On March 23, 2016, ██████████, DDS, authorized representative of his patient ██████████ (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 Guardian Life Insurance Company of America (Guardian). The Director 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 March 25, 2016. On March 30, 2016, after a preliminary review of the material submitted, the Director accepted the request.

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 April 12, 2016.

II. FACTUAL BACKGROUND

On December 1, 2015, the Petitioner had a crown and crown buildup performed on tooth #12. Guardian denied coverage. The Petitioner appealed the denial through Guardian's internal grievance system. At the conclusion of that process, Guardian affirmed its decision in a final adverse determination dated February 11, 2016. The Petitioner now seeks the Director's review of that final adverse determination.

III. ISSUE

Did Guardian correctly deny coverage for the crown and crown buildup on tooth #12?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination to the Petitioner, Guardian stated that coverage was denied because:

This tooth appears to have a poor or guarded prognosis. The dental plan does not cover procedures performed on teeth with a guarded, questionable or poor prognosis.

In a March 25, 2016 letter submitted for the external review, Guardian stated:

Two separate claim reviews have been performed on these procedures. Based on review of the clinical information provided, in both reviews the consultants advised that this tooth does not appear to have decay or injury necessitating a crown procedure or crown buildup procedure....

Petitioner's Argument

In the request for external review, the Petitioner's authorized representative wrote:

[Petitioner] came in on 11/17/15 and during cleaning appointment we recommended a crown to be done on tooth #12. Patient came in on 12/1/2015 for the crown procedure on tooth #12. Due to the healthy periodontition of tooth #12 is 10 plus years. Supporting documents such as an intraoral image and perio chart is included.

Director's Review

The Guardian dental policy provides coverage for crowns and crown buildups as "major restorative services" when they are dentally necessary. The coverage is described in the certificate (page 62):

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 certificate (page 55) also excludes covers for services for teeth with a problematic prognosis or that do not meet accepted dental standards:

Exclusions

* * *

- Any endodontic, periodontal, crown or bridge abutment procedure or appliance performed for a tooth or teeth with a guarded, questionable or poor prognosis.
- Any procedure or treatment method which does not meet professionally recognized standards of dental practice or which is considered to be experimental in nature.

Whether the crown on tooth #12 was dentally (medically) 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 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:

[C]harting provided for review reveals that the member is missing all permanent molars as well as upper premolars....[T]he radiographs provided for review appear to show tooth #12 to have approximately 60% bone loss on the distal aspect and several restorations on the distal root surface....[P]eriodontal charting does not document any gingival recession and lists probe depths of 1 to 2 mm on tooth #12, which is somewhat incongruous with the radiographic findings....[O]nly one radiograph was provided for review, which shows generalized periodontal bone loss in the upper left....[T]his type of generalized bone loss in one area with a pattern of missing posterior teeth would suggest a chronic periodontal disease state....[P]eriodontal disease causing greater than 50% bone loss and loss of all molars would indicate a guarded prognosis for the remaining teeth. Medical necessity predicates a reasonable long-term prognosis for the services rendered....[T]he prognosis in this case is worsened by the absence of molars, which necessitates increased occlusal function on the remaining premolars....[W]ith only two remaining upper teeth for mastication, the extensive bone loss noted on tooth #12 further worsens the long-term prognosis for this tooth due to the expected occlusal forces.

Pursuant to the information set forth above and available documentation...the crown and core build-up procedure the member received for tooth #12 on 12/1/15 were not medically/dentally necessary for treatment of her condition. (American Academy of Periodontology. Parameter on chronic periodontitis with advanced loss of periodontal support. *J Periodontol.* 2000;71:856-8. Faggion CM, et al. Prognostic model for tooth survival in patients treated for periodontitis. *J Clin Peridontol.* 2007;34:226-31.)

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 certificate of coverage. MCL 550.1911(15). The Director, discerning no reason why the IRO's recommendation should be rejected, finds that the crown and crown buildup on tooth #12 were not dentally necessary procedures and therefore are not covered benefits.

V. ORDER

The Director upholds Guardian Life Insurance Company of America's February 11, 2016, final adverse determination.

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