

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-402 - October 15, 1987

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage for oral surgery under the terms of the Employer Benefit Plan.

Background Facts

An oral surgeon determined that the Employee's 17-year-old dependent daughter had a severe deformity of the bones of her upper and lower jaw, which caused a limitation of the normal function of the jaws and temporomandibular joints and a predisposition to degenerative joint disease. He recommended that she have corrective oral orthopedic surgery to realign the upper and lower jaw bones to allow normal function of the jaws and temporomandibular joints. He reported that the skeletal misalignment of her jaws is an oral orthopedic problem which is causing jaw and joint dysfunction. He stated that the Employee's daughter needed to have her jaw realigned by performing upper and lower osteotomies, and that temporomandibular joint surgery was inappropriate at this time. He noted that temporomandibular joint surgery may be required after her osteotomies but that the oral orthopedic surgery probably would correct the joint dysfunction and eliminate the need for temporomandibular joint surgery altogether. The Employer denied benefits for the oral orthopedic surgery.

Dispute

Is the Employer responsible for the provision of health benefits for the Employee's daughter's proposed osteotomies?

Positions of the Parties

Position of the Employee: The Employee asks whether the Employer is responsible for the provision of health benefits for the Employee's daughter's proposed oral orthopedic surgery.

Position of the Employer: The Employer is not responsible for the provision of health benefits for the Employee's daughter's proposed osteotomies because an osteotomy is not one of the oral surgical procedures covered under the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (1)(g) of the Employer Benefit Plan states:

(1) Inpatient Hospital Benefits

(g) Oral Surgical/Dental Procedures

Benefits are provided for a Beneficiary who is admitted to a hospital for the oral surgical procedures described in paragraph (3) (e) provided hospitalization is medically necessary.

Benefits are also provided for a Beneficiary admitted to a hospital for dental procedures only if hospitalization is necessary due to a preexisting medical condition and prior approval is received from the Plan Administrator.

Article III. A. (3)(e) of the Employer Benefit Plan states:

(3) Physicians' Services and Other Primary Care

(e) Oral Surgery

Benefits are not provided for dental services. However, benefits are provided for the following limited oral surgical procedures if performed by a dental surgeon or general surgeon:

Tumors of the jaw (maxilla and mandible)  
Fractures of the jaw, including reduction and wiring  
Fracture of the facial bones  
Frenulectomy when related only to ankyloglossia (tongue tie)  
Temporomandibular Joint Dysfunction, only when medically  
necessary and related to an oral orthopedic problem  
Biopsy of the oral cavity  
Dental services required as the direct result of an accident

Discussion

Article III. A. (3)(e) of the Employer Benefit Plan specifies the limited oral surgical procedures for which benefits are provided. Among those procedures is surgery for temporomandibular joint dysfunction, under certain circumstances. A Funds' medical consultant has reviewed the

information submitted by the oral surgeon and has advised, consistent with Q&A 81-88 and ROD 84-128 (copies enclosed herein), that the proposed oral surgery is not among those limited procedures covered by Article III. A. (3)(e) of the Plan for temporomandibular joint dysfunction, even assuming that condition is present here.

In addition, according to Q&A 81-15 (copy enclosed herein), certain charges for services for dental and oral surgical procedures are covered under the Employer Benefit Plan only when performed in a hospital as part of the treatment for an illness or injury which is otherwise a covered benefit. Again, no evidence has been submitted to establish that this surgery is medically necessary to treat an otherwise covered medical problem or illness. The oral surgeon has stated that the patient can be expected to develop degenerative joint disease in the future. However, at the time the operation was proposed, the provider had not established the existence of a medical illness which necessitated the treatment under consideration and which qualified the professional services for the surgery for coverage under Q&A 81-15.

Article III. A. (1)(g) of the Employer Benefit Plan provides benefits for medically necessary hospitalization when the admission is for an oral surgical procedure listed in Article III. A. (3)(e). Inpatient hospital benefits are also provided when hospitalization for a dental procedure is necessary due to a beneficiary's preexisting medical condition, and when prior approval has been received from the Plan Administrator. The Funds' medical consultant has advised that there is no evidence of a pre-existing medical condition.

Because of the provider's failure to establish that the patient's proposed oral surgery is either a) one of the listed covered oral surgical procedures contained in Article III. A. (3)(e) or b) part of the treatment for an illness or injury which is otherwise a covered benefit, as meant by Q&A 81-15, the professional services fees cannot be covered. Because there is no evidence of a pre-existing medical condition, the patient's hospitalization does not meet the requirements for coverage under Article III. A. (1)(g).

#### Opinion of the Trustees

The Employer is not responsible for the provision of health benefits for the Employee's daughter's proposed upper and lower osteotomies.