

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-411 - 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 for oral surgery under the terms of the Employer Benefit Plan.

Background Facts

A dental surgeon diagnosed the Employee's dependent son as having a developmental jaw deformity and mandibular deficiency which he proposed to correct surgically prior to applying braces to correct the patient's malocclusion. No evidence of a pre-existing medical problem was submitted by the oral surgeon, Jack L. Aetekruse, D.D.S. A bilateral sagittal-split osteotomy and rigid fixation were performed in the hospital. This surgical procedure was proposed to reposition the lower jaw so that it would better articulate with the upper jaw, thereby improving mastication and speech and establishing lip competence.

A part of the dental surgeon's fee was paid under the Employer's dental plan. The Employer's insurance carrier paid benefits for the hospitalization charges associated with the Employee's son's oral surgery; however, the Employer states that such charges were paid by the insurance carrier in error and repayment of the benefits has been requested. The Employer has denied further payment for the dental surgeon's fee under the Employer Benefit Plan as a non-covered benefit under that Plan.

Dispute

Is the Employer responsible for the provision of health benefits coverage for the dental surgeon's fee and for the hospitalization charges for the Employee's son's oral surgery?

Positions of the Parties

Position of the Employee: The Employee asks whether the Employer is responsible for the provision of health benefits under the Employer Benefit Plan for the dental surgeon's fee and the hospitalization charges for the Employee's son's oral surgery.

Position of the Employer: The Employer is not responsible for the provision of health benefits under the Employer Benefit Plan for the dental surgeon's fee for the Employee's son's oral surgery because it is not one of the covered oral surgical procedures under Article III. A. (3)(e). The Employer is not responsible for the provision of health benefits for the related hospitalization charges because a preexisting medical condition has not been documented as required under Article III. A. (1)(g) of the Employer Benefit Plan. The Employer has paid correctly for services covered under the dental plan.

#### Pertinent Provisions

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

(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:

(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
- Fractures 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 dental surgeon and has advised, consistent with Q&A 81-88 and ROD 84-128 (copies enclosed herein), that the oral surgical Procedures outlined therein, a bilateral saggital-split osteotomy and rigid fixation, are not among those procedures covered by Article III. A. (3)(e) 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 physician described dental problems such as an overbite and deficient mastication; he did not state that either problem has caused a medical condition which needs to be treated and requires the surgery in question.

Article III. A. (1)(g) of the Employer Benefit Plan provides benefits for medically necessary hospitalization for oral surgical procedures only when the admission is for one of the oral surgical procedures listed in Article III. A. (3)(e). That article also states that inpatient hospital benefits are provided when because of a beneficiary's preexisting medical condition, hospitalization for a dental procedure is necessary and prior approval has been received from the Plan Administrator. A Funds' medical consultant reviewed additional information submitted by the Employee's son's plastic surgeon and found no evidence of a pre-existing medical condition that would indicate that hospitalization was necessary.

Inasmuch as the oral surgical procedures performed on the Employee's son are not among the covered procedures under Article III. A. (3)(e) and were not performed as part of the treatment for an otherwise covered benefit, as discussed in Q&A 81-15, the dental surgeon s fee is not covered under the Employer Benefit Plan. Furthermore, inasmuch as the Employee's son's hospitalization was not necessitated by a preexisting medical condition, the charges therefor are not covered under Article III. A. (1)(g) of the Employer Benefit Plan.

Dental benefits are provided under Article XX-A of the Coal Wage Agreement but the Trustees have authority to resolve disputes involving benefits established by Article XX only. Therefore, the Trustees may not address disputes concerning dental plan benefits.

#### Opinion of the Trustees

The Employer is not responsible for payment of the charges related to the professional services or the hospitalization for the Employee's son's oral surgery under the terms of the Employer Benefit Plan.