

OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 84-559 - March 16, 1988

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

The Pensioner's spouse had severe atrophy of the maxilla and mandible, which rendered her unable to masticate adequately, causing weight loss and malnutrition. In order to restore the bony ridges and prevent a fracture of her resorbed mandible, an oral surgeon and orthopedic surgeon grafted iliac crest (hip) bone to her maxilla and mandible using orthopedic screws as a means of rigid fixation.

The Employer denied coverage under the Employer Benefit Plan for the Pensioner's spouse's oral surgery because bone grafts to the maxilla and mandible are not among the limited oral surgical procedures covered under Article III.A. (3)(e) of the Plan. The Employer also stated that Pensioners and their dependents are ineligible for Dental Plan Benefits.

Dispute

Is the Employer responsible for the provision of health benefits coverage for the professional services, including anesthesia services, and the hospitalization charges for the Pensioner's spouse's oral surgery?

Positions of the Parties

Position of the Pensioner: The Employer is responsible for the provision of health benefits for provision of health benefits under the Employer Benefit Plan for the professional services, including anesthesia services, and the hospitalization charges for the Pensioner's spouse's oral surgery.

Position of the Employer: The Employer is not responsible for the provision of health benefits for the Pensioner's spouse's oral surgery because bone grafts are not among the limited oral surgical procedures covered under Article III.A. (3)(e) of the Employer Benefit Plan. Pensioners and their dependents are ineligible for Dental Plan benefits.

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  
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

Article III. A. (11) (a) 19. of the Employer Benefit Plan states:

(11) General Exclusions

- (a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

19. Dental services.

#### Discussion

Article III. A. (11)(a) 19. of the Employer Benefit Plan states that benefits are not provided for dental services. Article III. A. (3)(e) of the Plan specifies the limited oral surgical procedures for which benefits are provided. In addition, according to Q&A 81-15 (copy enclosed herein), certain 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.

Article III. A. (1)(g) of the 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 prior approval has been received from the Plan Administrator.

Bone grafts can be utilized for the purpose of surgically implanting a healthy section of bone from a site such as the hip into an atrophying section of bone in the maxilla and/or mandible. A Funds' medical consultant has reviewed the information submitted by the oral surgeon and has advised that the Pensioner's spouse's oral surgery is not among the limited procedures listed in Article III. A. (3)(e) of the Plan. The consultant states that the information provided is insufficient to establish that the Pensioner's spouse's surgery was medically necessary to treat an otherwise covered medical problem or illness. The physician described problems such as deficient mastication contributing to weight loss; however, he has not established that treatment of such problems could only be accomplished by the surgery in question. Furthermore, there is no evidence of a preexisting medical condition which would satisfy the requirements for hospitalization under Article III. A. (1)(g).

Inasmuch as the oral surgical procedures performed on the Pensioner's spouse are not among the procedures covered under Article III. A. (3)(e) and were not performed as part of the treatment of an otherwise covered benefit, as meant by Q&A 81-15, the professional services, including anesthesia services, are not covered under the Employer Benefit Plan. Furthermore, inasmuch as the Pensioner's spouse's hospitalization was not necessitated by a preexisting medical condition, the charges are not covered under Article III. A. (1)(g) of the Plan.

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

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Opinion of the Trustees

The Employer is not responsible for providing health benefits under the Employer Benefit Plan for the Pensioner's spouse's oral surgery or the associated hospitalization.