

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-021 - December 12, 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 exception 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 orthodontist diagnosed the Employee's dependent daughter as having a severe Class II, bi-maxillary protrusion malocclusion. He characterized the malocclusion as a developmental deformity that is skeletal and dental in nature. The orthodontist referred the Employee's daughter to an oral surgeon who states that the severe open bite deformity interferes with her ability to chew her food, and that she has severe temporomandibular joint (TMJ) dysfunction. The orthodontist applied braces to prepare the Employee's daughter's teeth for the surgical treatment, a maxillary osteotomy, recommended by the oral surgeon. The Employee's request for prior approval for the proposed oral surgery was denied by the Employer. The Employee contends that coverage should be provided because his daughter's condition is the result of a birth defect.

The Employer contends that a maxillary osteotomy is not one of the covered procedures listed in Article III. A. (3)(e) of the Employer Benefit Plan and that the medical information provided does not indicate a preexisting medical condition which would satisfy the requirements of Article III. A. (1 ( ) of the Plan. The Employer therefore maintains that coverage for the proposed oral surgery and related hospitalization was properly denied.

The Employer states that since the proposed oral surgery is a non-covered procedure, the Employee's claim that it is necessary to correct a birth defect is irrelevant.

Dispute

Is the Employer responsible for providing health benefits coverage for the the Employee's daughter's proposed oral surgery and the related hospitalization?

### Positions of the Parties

Position of the Employee: The Employer is responsible for providing health benefits coverage for the Employee's daughter's proposed oral surgery because it is necessary to correct a birth defect.

Position of the Employer: The Employer is not responsible for providing health benefits coverage for the Employee's daughter'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 providing health benefits coverage 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.

### 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

#### 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 in this case and has advised that the proposed oral surgical procedure is not among those procedures covered under Article III. A. (3)(e). The consultant has also advised that there is no medical documentation of TMJ dysfunction in this case and that the proposed surgery is intended to correct an orthodontic problem (open bite), not to specifically reorient the temporomandibular joint.

According to Q&A 81-15 (copy enclosed herein), charges for dental and oral surgical procedures may also be covered under the Employer Benefit Plan only when the procedure is performed in a hospital as part of the treatment for an illness or injury which is otherwise a covered benefit. The medical consultant has advised that no evidence has been submitted to establish that the proposed surgery is medically necessary to treat an otherwise covered medical condition.

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 medical consultant has advised that there is no evidence of a preexisting medical condition.

Since the patient's proposed oral surgery is not a) one of the covered oral surgical procedures listed in Article III. A. (3)(e) or b) part of the treatment for an illness or injury which is otherwise a covered benefit, the professional services fees are not covered. Because the surgery is not one of the covered oral surgical procedures listed in Article III. A. (3)(e) and there is no evidence of a preexisting 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 providing health benefits coverage for the Employee's daughter's proposed oral surgery and hospitalization.