

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-060 - June 27, 1989

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

The Employee's spouse, complaining of ear pain, severe headaches, and "popping" in the jaw joints, was seen by an otolaryngologist (ear, nose and throat specialist). The otolaryngologist referred her to an orthodontist. The orthodontist diagnosed her condition as "an unspecified derangement of the TMJ due to the skeletal malocclusion and the loss of posterior stability." The orthodontist stated that in order to prevent further damage to the temporomandibular joint the Employee's spouse would have to undergo three procedures: (1) orthodontic treatment; (2) oral surgery to reposition the mandible; and (3) prosthetic tooth replacement. The orthodontist referred the Employee's spouse to an oral surgeon.

The oral surgeon stated that the Employee's spouse had a mandibular malocclusion and deviation of her jaw to the left. The oral surgeon concluded that in order to prevent further damage to her temporomandibular joints and to alleviate her frequent headaches, the Employee's spouse would have to undergo a mandibular osteotomy. The oral surgeon advised that the procedure was a major surgical procedure which, because of the risk of infection, severe bleeding, and airway complications, should be performed in the hospital. On March 22, 1988, the Employee's spouse underwent the recommended mandibular osteotomy.

The oral surgeon's fee (\$3100.00), the anesthesiologist's charge (\$512.00), and the hospital charges (over \$3300.00) were submitted to the Employer. The Employer has denied benefits for such services. The Employee contends that his spouse's oral surgery was medically necessary and should be covered under the Employer Benefit Plan. He also contends that the related

hospital charges should be covered, and he has submitted a Summary Plan Description of the 1974 version of the UMWA 1974 Benefit Plan to support his position.

Dispute

Is the Employer required to provide health benefits for the oral surgeon's fee, the anesthesiologist's charge, and the hospitalization charges associated with the Employee's spouse's oral surgery?

Positions of the Parties

Position of the Employee: The Employer is required to provide health benefits for the Employee's spouse's oral surgery, including anesthesia services and hospitalization, because the surgery was medically necessary.

Position of the Employer: The Employer is not required to provide health benefits for the Employee's spouse's oral surgery because it is not one of the covered oral surgical procedures listed in Article III. A. (3)(e) of the Employer Benefit Plan, and there is no evidence that the surgery was part of the treatment for an otherwise covered condition. The Employer is not responsible for the provision of health benefits for the related hospitalization charges because hospitalization was not necessary as a result of a preexisting medical condition, as required for coverage under Article III. A. (1)(g) of the 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)(d) and (e) of the Employer Benefit Plan state:

(3) Physicians' Services and Other Primary Care

(d) Anesthesia Services

Benefits are provided for the administration of anesthetics provided either in or out of the hospital in surgical or obstetrical cases, when administered and billed by a physician, other than the operating surgeon or his assistant, who is not an employee of, nor compensated by, a hospital, laboratory or other institution.

(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. Although the orthodontist and the oral surgeon stated that the mandibular osteotomy was necessary to prevent "further damage" to the temporomandibular joints, they did not state that the Employee's spouse was suffering from Temporomandibular Joint Dysfunction. The orthodontist did state generally that the Employee's spouse had an "unspecified derangement of the TMJ." However, the chief diagnosis stated by both the orthodontist and the oral surgeon was that the Employee's spouse suffered from a malocclusion. A Funds' medical consultant advised, after reviewing the case, that the osteotomy performed by the oral surgeon was not one of the oral surgical procedures identified in Article III.

According to Q&A 81-15 (copy attached), certain dental and oral surgical procedures may also be covered only when performed in a hospital as part of the treatment for an illness or injury which is otherwise a covered benefit. Examples of such dental or oral surgical procedures are: the extraction of teeth during treatment of cancers of the head and mouth, and the insertion of a mandibular bone staple to repair a fractured jaw. Q&A 81-15 states that "resection of prognathic mandible" may be a covered procedure. However, it is only covered when performed as part of a treatment for an illness or injury which is otherwise a covered benefit. A Funds' medical consultant advised specifically that there is no evidence that the oral surgical procedure in question was part of the treatment of an otherwise covered medical condition. This oral surgical procedure was performed to correct a malocclusion, a dental problem, not an otherwise covered illness or injury.

Article III. A. (1)(g) provides that hospital charges for oral surgical or dental procedures are covered when the admission is for an oral surgical procedure described in Article III. A. (3)(e), or the admission is for a dental procedure and hospitalization is necessary due to a beneficiary's preexisting medical condition. As noted above, the osteotomy performed on the Employee's spouse is not one of the oral surgical procedures listed in Article III; A. (3)(e). The Employer is, therefore, required to provide benefits for the hospital charges only if hospitalization was necessary because of a preexisting medical condition. A Funds' medical consultant advised that there is no evidence of a preexisting medical condition that necessitated hospitalization of the Employee's spouse. According to the oral surgeon, hospitalization was necessary because of risks inherent in the procedure.

The Employee's spouse's oral surgery is not one of the covered oral surgical procedures listed in Article III. A. (3)(e), the oral surgery was not part of a treatment for an illness or injury which is otherwise covered, and hospitalization was not due to a pre-existing medical condition. Accordingly, benefits are not provided for the oral surgeon's fee, the anesthesiologist's charge, or the hospitalization charges in this case.

The Employee relies on language contained in a Summary Plan Description (SPD) of the United Mine Workers of America 1974 Benefit Plan to support his position. The decision here is governed by the provisions of the Employer Benefit Plan established pursuant to the National Bituminous Coal Wage Agreement of 1988, as cited above.

Opinion of the Trustees

The Employer is not required to provide health benefits for the oral surgeon's fee, the anesthesiologist's charge, or the hospitalization charges associated with the Employee's spouse's oral surgery.