

---

## OPINION OF TRUSTEES

---

### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-024 - June 6, 1996

Trustees: Thomas F. Connors, Michael H. Holland, Donald E. Pierce, Jr. and Elliot A. Segal.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage for orthodontia services under the terms of the Employer Benefit Plan.

### Background Facts

The Employee's son was born on August 9, 1982 with an incomplete cleft of the left lip for which he subsequently underwent two surgeries: initially to repair the cleft lip; and later, to correct the resulting nasal tip deformity. The Employer provided benefits for these surgeries.

In March 1994, the orthodontist submitted a Predetermination of Benefits request for orthodontics to correct the Employee's son's Class III malocclusion, (an anterior cross-bite due to a lack of maxillary development). The Employer's dental insurance carrier approved \$500.00 and denied \$2900.00 as over the plan maximum. The Employee requested that, since he felt the services were necessary to treat complications of his son's congenital anomaly, the claim be paid under the medical plan, not the dental plan. The Employer has denied the Employee's request to provide medical benefits.

### Dispute

Is the Employer required to provide benefits under the Employer Benefit Plan for the orthodontic services rendered to the Employee's son?

### Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's son's orthodontic treatment because such treatment is needed to correct a medical problem related to his congenital abnormality.

Position of the Employer: The Employer is not required to provide benefits for the Employee's son's orthodontic treatment because such treatment is a dental service and, as such, is not a covered benefit under the Employer Benefit Plan. In addition, this case does not involve the limited circumstances under which the orthodontic treatment might otherwise be covered pursuant to Q&A 81-15.

Pertinent Provisions

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

Article III. Benefits

A. Health Benefits

(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

Q and A 81-15 states in pertinent part:

Question:

Are the following dental and oral surgical procedures covered under the Plan:

- a. extraction of teeth?
- b. gingivectomy, alveolectomy, operculectomy?
- c. gingivoplasty, alveoplasty, vestibuloplasty?
- d. treatment of abscessed teeth?
- e. resection of prognathic mandible?
- f. mandibular bone staple?
- g. orthodontics?

Answer:

The dental and oral surgical procedures listed above, when performed in a hospital, are covered only when they are part of a treatment for an illness or injury which is otherwise a covered benefit. Examples of this would be: (1) the extraction of teeth during emergency treatment of extensive facial damage resulting from an auto accident; (2) the extraction of teeth during treatment of cancers of the head and mouth; and (3) the insertion of a mandibular bone staple to repair a fractured jaw.

Except as provided in the above paragraph, none of these seven procedures is covered under the Plan.

#### Discussion

Under the provisions of Article III.A.(3)(e), dental services may qualify as covered benefits when they are required as the direct result of an accident. Dental services are otherwise excluded under Article III.A.(11)(a)19., except when performed in a hospital as part of the treatment for an illness or injury which is otherwise a covered benefit, pursuant to Q&A 81-15.

Orthodontics is a branch of dentistry which uses mechanical devices (e.g., braces) to prevent and correct irregularly positioned teeth and malocclusion. Orthodontic treatment is, therefore, a dental service and benefits are not provided under the Employer Benefit Plan, except when required as the direct result of an accident or when performed in a hospital as part of a treatment for an illness or injury which is otherwise a covered benefit. There is no indication that the orthodontic treatment recommended for the Employee's son in this case is required as the direct result of an accident.

Opinion of Trustees

ROD Case No. 93-024

Page 4

A Funds' medical consultant has reviewed the information submitted in this case and has advised that the orthodontic procedures and treatments are not among the oral surgical procedures listed in Article III. A. (3)(e) of the Employer Benefit Plan. Also, the treatment was not performed in a hospital, as noted in Q&A 81-15. Accordingly, the Trustees find that the Employer is not required to provide health benefits for the Employee's son's orthodontic treatment.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide health benefits for the Employee's son's orthodontic treatment.