
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 02-009 – November 10, 2004

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson and
Elliot A. Segal.

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

Background Facts

The Complainant's son, whose date of birth is July 28, 1981, experienced his jaw locking open on at least three occasions. Subsequently, the Complainant's son underwent surgery in December 2002 to correct severe mandibular dentoskeletal dysplasia (the abnormal development of the lower jaw bone and teeth). Prior to the surgery, the oral surgeon referred the Complainant's son to an Orthodontist who fitted the Complainant's son with orthodontic appliances (braces) to level and align his teeth in anticipation of the oral surgery in December 2002.

The Respondent provided benefits coverage for the Complainant's son's oral surgery in December 2002. However, benefits coverage for the orthodontic appliances was denied.

Dispute

Is the Respondent required to provide coverage for the orthodontic appliances?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide coverage for the orthodontic appliances because if the December 2002 surgery was to be successful, it was necessary first to level and align the Complainant's son's teeth. Thus, the orthodontic appliances were necessary prior to the oral surgery.

Position of the Respondent: The Respondent is not required to provide coverage for the Complainant's son's orthodontic appliances because under Article III A. (3) (e) dental services are only covered as a direct result of an accident. The services provided the Complainant's son were not a direct result of an accident. Under Article III A. (11), dental services are also excluded from coverage under the Employer Benefit Plan. The Respondent referred to ROD 93-024 to support its position.

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

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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.

In ROD 93-024, the Trustees noted that 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 Complainant's son was required as the direct result of an accident. In addition, the treatment was not performed in a hospital as part of a treatment for an illness or injury as required by Q&A 81-15.

The Funds' Medical Director has reviewed the information submitted in this case and has advised that the orthodontic work, even as a prerequisite for a planned oral surgery, as carried out in this case would not be covered under the oral surgical provisions of the Employer Benefit Plan. Accordingly, the Trustees find that the Respondent is not required to provide health benefits for the Complainant's son's orthodontic treatment.

Opinion of the Trustees

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