

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No. 23, August 22, 1979

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee; Paul R. Dean, Trustee

Pursuant to Article IX of the United Mine Workers of America 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 about the level of health benefits provided to an Employee's dependent by an Employer and hereby render their opinion of the matter.

Background Facts

Complainant is an active employee of the Employer. Employee's dependent daughter requires removal of four impacted third molars (wisdom teeth) in an inpatient hospital setting.

Question or Dispute

The Employee has requested that the Employer notify him as to whether the surgical procedure in question is covered under the Plan. The Employer has responded that the hospitalization may be covered if it is medically necessary, but that the surgical procedures may not be covered.

Positions of the Parties

Claimant's Position: The Employer is responsible for payment of the surgical claim, since the surgery is medically necessary and complicated.

Employer's Position: The Employer is not responsible for payment of the surgical claim, since the procedure is not one of the types of oral surgery allowable under Article III, Section A (3) (e), of the Benefit Plan.

Applicable Regulations

o Article III, Section A (3) (e) of the Employer Plan, provides as follows:

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)

o Article III, Section A (10) (a) 19 of the Employer Plan specifically excludes as follows:

Dental Services

o 1978 Contract Question and Answer #48, as approved by the Trustees on June 21, 1978, provides as follows:

Question: Are the following dental procedures covered under the 1978 Agreement:

- a. extraction of teeth?
- b. gingivectomy, alveolectomy, operculectomy?
- c. gingivoplasty, alveoplasty?
- d. treatment for abscessed teeth?
- e. hospitalization for the above?

Answer: The extraction of teeth, when performed in a hospital, and costs associated with the extraction are covered only when they are part of a treatment for an illness or injury which itself is a covered benefit. Examples of this would be the extraction of teeth during treatment for an auto accident involving extensive facial damage, or during treatment for cancers of the head and neck.

Aside from this provision, none of the above procedures is covered under the 1978 Agreement, since dental services are specifically excluded from the coverage, except for those listed under the Oral Surgery benefit in Section A (3) (e). These include surgical treatment for:

- tumors of the jaw
- fractures of the jaw, including reduction and wiring
- fractures of the facial bones
- frenulectomy, when related to anklyoglossia (tongue tie)

Discussion

The governing provision of the Plan only includes the above listed procedures. In addition, the procedure is specifically excluded in 1978 Contract Question and Answer #48.

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The Trustees are of the opinion that the Employer is not responsible for payment of surgery charges for removal of teeth for the Employee's dependent.