

OPINION OF TRUSTEES

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In Re

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Complainant: Employee  
Respondent: Employer (Plan Administrator)  
ROD Case No. 96, February 7, 1980

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

Pursuant to Article IX of the United Nine 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 concerning the payment of bills for oral surgery and hereby render their opinion on the matter.

Background Facts

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Complainant is an active mine worker eligible for health benefits under the Employer's Plan. The Employee was referred to a dental surgeon for treatment of mandibular atrophy with an inability to masticate properly. The Employee has a secondary problem which causes the dislocation of the mandible because of a loss of vertical dimension of his jaws. The dental surgeon proposed a vestibuloplasty which is surgery involving the repositioning and lowering of the tissue attachments in the Employee's lower jaw, thereby exposing more bone. This bone was subsequently to be covered by a skin graft taken from his thigh.

The Plan Administrator is an agency which was selected and acts as a third party administrator to the Employer's benefit plan, and pays medical claims for the Insurance Carrier to the Plan. The Plan Administrator had initially refused prior authorization for this surgery on the basis that it is an oral surgical procedure which is not covered under the Plan. The Plan Administrator contacted the Insurance Carrier for further consideration of this claim. Upon review by the Insurance Carrier's surgical consultant, coverage was again denied on the basis that this is not a dental procedure for which benefits are provided.

Question or Dispute

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Is the treatment for mandibular atrophy a covered benefit?

Position of Parties

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Complainant: The Employee questioned the coverage provided for this procedure. Additionally, the position of the Employer's representative and the account executive of the Plan's third party agency is that the proposed procedure should be a covered benefit because of its severity and complexity, and that it is not the minor type of surgical procedure usually considered to be dental surgery (e.g. removal of impacted wisdom teeth). The procedure also requires a skin graft from the patient's thigh to the gums. If such a graft were to be performed by a medical surgeon from the thigh to an area other than the mouth, it would be a covered procedure.

Respondent: The insurance Carrier is not responsible for coverage of this procedure. It is the opinion of the Insurance Carrier's surgical consultants that vestibuloplasty with a skin graft is an oral surgical procedure. According to Article III, Section A. (3)(e) Oral Surgery of the Plan, vestibuloplasty is not one of the four limited oral surgical procedures and therefore, not a covered benefit. The Plan Administrator concurs with the Insurance Carrier's position.

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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 ankyloglossia (tongue tie)

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#### Discussion

The Employer Plan provides benefits for four limited oral surgical procedures, if performed by a dental surgeon or a general surgeon. According to the dental surgeon's statement, the vestibuloplasty is recommended as treatment for severe atrophy of the mandible. Oral surgical benefits are only provided for treatment of tumors or fractures of the mandible. 1978 Contract Question and Answer #48 further clarifies that dental and oral surgical procedures of this type are not a covered benefit unless they are part of a treatment for an illness or injury which is otherwise a covered benefit. The fact that a skin graft from the thigh is required in order to cover the exposed bone of the jaw is secondary to the purpose of the surgery. The vestibuloplasty procedure is being performed as treatment for atrophy of the mandible and is considered a dental problem. According to the provisions of the Employer's Plan, vestibuloplasty is not one of the four oral surgical procedures for which benefits are provided.

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#### Opinion of the Trustees

The Trustees (by a vote of 2 to 1) are of the opinion that the Insurance Carrier is not responsible for the payment of bills incurred by the Employee for the oral surgical procedure proposed as treatment for mandibular atrophy.