

OPINION OF TRUSTEES

IN RE

Complainant: Employee
Respondent: Employer
ROD Case No. 129 August 29, 1980

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 concerning oral surgical benefits and hereby render their opinion on the matter.

Background Facts

The Employee is an active mineworker eligible for health benefit coverage under the Employer's Plan. The Employee's dependent spouse has requested prior approval from the Employer for pending oral surgery. According to the oral surgeon, the spouse suffers from a chronically abscessed wisdom tooth in which the sinus intertwines with the roots. The physician advises that it is possible that the chronic abscess in this tooth is a source of chronic infection to the sinus. He recommends that the tooth be removed. It may also be necessary to perform a second procedure at the time of surgery to close the sinus for which an additional fee would be charged to the Employee.

The Employee is responsible for the oral surgical charges related to the tooth extraction. The Employer has approved payment of hospitalization costs in connection with the hospitalization for the tooth extraction since the Employee's spouse has a history of cardiac problems. The Employee is requesting prior approval from the Employer for the charges associated with the anesthesiologist end with the oral surgeon for the procedure to close the sinus tract should it be deemed necessary once the abscessed tooth is extracted.

Question

Are the professional charges associated with the anesthesiologist and the oral surgeon for the potential second surgical procedure covered under the provisions of the Plan?

Position of Parties

Complainant: The Employee is seeking prior approval from the Employer for coverage of the professional charges associated with the pending oral surgery for his spouse. The Employee states that the charges for the closure of a sinus tract should be covered in that they pertain to necessary surgery. Professional charges for the tooth extraction would be paid by the Employee.

Respondent: The Employer is seeking the opinion of the Trustees in this case.

Applicable Regulations

- 1978 Contract Question and Answer #88 provides as follows:

Subject: Hospitalization and Professional Services for Dental Procedures

References: Amended 1950 and 1974 Benefit Plans and Trusts, Article III, Section A (1)(a) and A (3)(d) and (e); Other Q&As: 1978 Contract Q&A #48

Question: 1. Is oral surgery a covered benefit?

2. Are dental services a covered benefit?

3. Are hospitalization charges for semi-private room and board related to a non-covered dental procedure covered under the Plan?

4. Are benefits provided for the medically necessary services (enumerated in Article III, Section A (1) and (2)) in connection with hospitalization for a non-covered dental procedure?

5. Are benefits provided for physician services (enumerated in Article III, Section A(3)) in connection with a hospitalization for a non-covered dental procedure?

Answers: 1. Yes, for these limited procedures:

- o tumors of the jaw
- o fractures of the jaw, including reduction and wiring
- o fractures of the facial bones
- o frenulectomy, when related to ankyloglossia

2. No.

3 & 4. No, except when 1) hospitalization is medically necessary because of an underlying medical condition and 2) prior authorization has been obtained from the Trustees.

5. No, except for the treatment of a medical condition for which benefits would otherwise be provided.

- Article III, Section A (3)(a) of the Plan provides as follows:

"Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedures (including the usual and necessary post-operative care) for the treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

"When surgical services consist of necessary major surgery (primary) and the physician performs surgery additional to the primary surgery (incidental surgery), benefits payment for the incidental surgery will be provided but at a rate 50 percent lower than the physician's normal charge had he performed only the incidental surgery."

- Article III, Section A (3)(d) provides as follows:

"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."

- Article III, Section A (3)(m) provides as follows:

"Benefits will be provided for treatment prescribed or administered by a specialist if the treatment is for illness or injury which falls within the specialist's area of medical competence."

Discussion

In view of the fact that the Employer has approved payment of the hospitalization costs in connection with the tooth extraction, charges associated with the medically necessary services, including anesthesia, in connection with the hospitalization would be covered (see Q&A #88, 3 and 4). However, charges related to physician services, including those of an anesthesiologist, would not be covered, in that the administration of anesthesia is not necessary for the treatment of the spouse's medical condition (see Q&A #88, 5).

If it becomes necessary for the oral surgeon to perform the second procedure for closure of the sinus tract, charges relating to this procedure would be covered in accordance with the Specialist Care provision of the Plan (Article III, A (3) (m)). It is the opinion of our medical consultants that the surgical procedure to close the sinus tract is medical, and not dental, in nature and therefore would be allowable under the Plan.

Article III A(3)(a) states that when surgical services consist of necessary major surgery (primary) and the physician performs surgery additional to the primary surgery (incidental surgery),

benefits payment for the incidental surgery would be provided at a rate 50 percent lower than the physician's normal charge had he performed only the incidental surgery. It would therefore be appropriate to provide benefits for the oral surgeon's fee for closure of the sinus tract at a rate 50 percent lower than his normal charge for that service. In addition, the professional charges for anesthesia services provided in connection with this procedure would be covered if these services meet the requirements specified in Article III, A (3)(d) of the Plan.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for professional charges for anesthesia services relating to the tooth extraction. If it becomes necessary to perform the incidental surgery the professional charges for the oral surgeon and the anesthesiologist relating to the sinus closure would be covered under the Plan. The oral surgeon's charges relating to the repair of the sinus tract would be provided at a 50 percent rate lower than the normal charge had he performed only the sinus closure.