

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 213, July 28, 1981

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. On November 18, 1980, the Employee underwent surgery, performed by a dental surgeon, in order to remove a tumor from his jaw. The preoperative diagnosis on the Operative Report was "Maxillary Labial Soft Tissue Mass" and the procedures to be performed were "Excision of soft tissue mass, vestibuloplasty, and placement of split thickness skin graft". The discharge diagnosis on the Discharge Summary was "post status tumor, anterior maxilla, diagnosis undecided". The diagnosis on the Surgical Pathology Report was Papilloma Irritated and Infected Maxilla". The Insurance Carrier has denied all charges related to the surgery, which total \$1,745.00.

Dispute

Is the Employer responsible for payment of charges related to the Employee's oral surgery?

Position of the Parties

Employee's Position: The Employer is responsible for the reimbursement of charges related to the oral surgery which were paid by the Employee.

Employer's Position: Article III, Section A (e) of the Employer's Plan provides limited coverage for oral surgery. As the Employee's surgery was necessary in order to fit the Employee with dentures and as this type of procedure is not listed under Article III A (3)(e) of the Plan, benefits should be denied.

Pertinent Provisions

- Article III, Section A (3)(e) of the Employer's 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).
- 1978 Contract Q & A #48, approved by the Trustees on April 16, 1980, provides as follows:

Subject: Dental and Oral Surgical Services

References: Article III, Section A (1) (g) and Section A-(3) (e) of the Employer's Plan and 1978 Contract Q & A #23, #88.

Question:

Are the following dental and oral surgical procedures covered under the 1978 Agreement?

- a. extraction of teeth?
- b. gingevectomy, alveolectomy, operculectomy?
- c. gingivoplasty, alveoplasty, vestibuloplasty?
- d. treatment for 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 treatment for an auto accident involving extensive facial damage; (2) the extraction of teeth during treatment for

Opinion of the Trustees

ROD Case No. 213

Page 3

cancers of the head and mouth; or (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 1978 Agreement.

Dental services are specifically excluded from 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)

Discussion

Under Article III, A (e) of the Employer's Plan, and 1978 Contract Q & A #48, benefits are provided for four limited oral surgical procedures, including tumors of the jaw (maxilla and mandible), if performed by a dental surgeon or general surgeon. The medical evidence in the file, including the Operative Report, the Discharge Summary, and the Surgical Pathology Report, indicates that the Employee underwent oral surgery in order to remove a tumor from the anterior maxilla, i.e., the jaw. As treatment of a tumor of the jaw is one of the four limited oral surgical procedures covered under the Employer's Plan, benefits should be provided in this case.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is responsible for payment of the charges related to the Employee's oral surgery.