

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-142 - March 25, 1986

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 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 provision of health benefits for oral surgery under the terms of the Employer Benefit Plan.

Background Facts

An oral surgeon diagnosed the Employee's dependent son as having a developmental jaw deformity, maxillary deficiency and asymmetry. A total maxillary osteotomy and rigid fixation were performed in a hospital under general anesthesia. This surgical procedure repositioned the upper jaw so that it would better articulate with the lower jaw, thereby improving mastication and speech and establishing lip competence.

The Employer's insurance carrier initially indicated that it would consider the surgery and related anesthesia for payment under the dental plan. However, after receiving clarification of the procedures involved from the oral surgeon, the claim was considered for coverage under the Medical Benefit Plan, and payment was denied for the surgical procedures and the associated anesthesia and hospitalization charges.

Dispute

Is the Employer responsible for the provision of health benefits coverage for the Employee's son's oral surgery?

Position of the Parties

Position of the Employee: The Employer is responsible for the provision of health benefits coverage for the Employee's son's oral surgery because, as major, corrective upper jaw surgery it is a covered medical benefit under Article III. A. of the Employer Benefit Plan.

Position of the Employer: The Employer is not responsible for the provision of health benefits for the Employee's son's oral surgery because it is not one of the covered oral surgical procedures under Article III. A. (3)(e).

Pertinent Provisions

Article III. A. (3)(e) of the Employer Benefit Plan states:

(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

Article III. A. (1) (g) of the Employer Benefit Plan states:

(g) Oral Surgical/Dental Procedures

Benefits are provided for a beneficiary who is admitted to a hospital for the oral surgical procedures described in paragraph (3) (e) provided hospitalization is medically necessary.

Benefits are also provided for a beneficiary admitted to a hospital for dental procedures only if hospitalization is necessary due to a pre-existing medical condition and prior approval is received from the Plan Administrator.

Q&A #81-15 states:

Subject: Dental and Oral Surgical Services

References: Amended 1950 & 1974 Benefit Plans & Trusts,
Article III, Section a (3) (e)

Other: 1981 Contract Q&A #81-16

Question:

Are the following dental and oral surgical procedures covered under the Plan:

- a. extraction of teeth?
- b. gingavectomy, 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 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.

Q&A #81-16 states:

Subject: Hospitalization and Professional Services for Dental Procedures

References: Amended 1950 & 1974 Benefit Plans & Trusts,
Article III, Sections a (1) (a), a (3) (d) and (e) and A (11) 19

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), (2) and (3) 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?

Answer:

1. Yes, if such surgery receives the prior approval of the Plan Administrator and is performed in a hospital and hospitalization is medically necessary, benefits are provided for oral surgery treating
 - tumors of the jaw
 - fractures of the jaw, including reduction and wiring
 - fractures of the facial bones
 - frenulectomy, when related to ankyloglossia
 - temporomandibular joint dysfunction, only when medically necessary and related to an oral orthopedic problem
 - biopsy of lesions of the oral cavity
2. No.
3. & 4. No, except when, 1) hospitalization is medically necessary because of pre-existing medical condition, and 2) prior authorization has been obtained from the Plan Administrator.
5. No, except for the treatment of a medical condition for which benefits would otherwise be provided.

Discussion

Article III. A. (3)(e) of the Employee, Benefit Plan specifies the limited oral surgical procedures for which benefits are provided. Total maxillary osteotomy and rigid fixation are not among those procedures covered by the Plan.

According to Q&A #81-15, certain dental and oral surgical procedures are covered under the Employer Plan only when performed in a hospital as part of the treatment for an illness or injury which is otherwise a covered benefit. Q&A #81-16, provides that physician services, including anesthesia services, are a covered benefit only when they are for the treatment of a medical condition for which benefits would otherwise be provided.

According to the information provided, the total maxillary osteotomy was not part of the treatment for an illness or injury which is otherwise a covered benefit. Therefore the physician's services, including anesthesia services are not a covered benefit under the Employer Benefit Plan.

Article III. A. (1) (g) of the Employer Benefit Plan provides benefits for medically necessary hospitalization when the admission is for an oral surgical procedure listed in Article III. A. (3) (e). Benefits are also provided when hospitalization for a dental procedure is necessary due to a beneficiary's pre-existing medical condition, and when prior approval has been received from the Plan Administrator.

Because the total maxillary osteotomy is not a covered procedure under Article III. A. (1) (g), and the Employee's son does not have a pre-existing medical condition that would satisfy the requirements of Article III. A. (1) (g), hospitalization for the procedure is not a covered benefit.

In ROD 81-529 (enclosed herein) the Trustees have addressed the question of coverage for an osteotomy to correct a malformation of the jaw and teeth. The opinion of the Trustees in that case was that the procedures in question were non-covered oral surgical procedures. Therefore, the Employer was not responsible for payment for the surgery, anesthesia or hospitalization charges.

Opinion of the Trustees

The Employer is not responsible for payment of charges related to the Employee's son's oral surgery, anesthesia or hospitalization.