

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-002 - September 21, 1988

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 coverage for oral surgery under the terms of the Employer Benefit Plan.

Background Facts

The Employee's son was born with a cleft lip and palate which were repaired in his infancy. He has had no subsequent surgery or orthopedic repositioning. He is now 15 years old and has applied to the Handicapped Children's Service of the Utah Department of Health for evaluation of his condition. At a Cleft Lip Palate Clinic sponsored by the Utah Department of Health in Salt Lake City, a team of specialists examined the boy and made recommendations for his treatment now that he is an adolescent. They determined that both segments of his palate have collapsed as he has grown from infancy and that he will need several procedures in his late adolescent years to correct his condition. According to information published by the American Cleft Palate Educational Foundation, it is common for persons who have cleft palates, which are birth defects, to need several stages of surgical correction as they grow. The team determined that the patient would need to have his jaw expanded by an orthodontist who would begin by surgically inserting plates into the collapsed palate to realign it. After the realignment to correct the collapsed palate, there will be a fistula again which will probably require an alveolar bone graft to repair.

The Employer did not grant prior approval for the Employee's son's proposed orthopedic repositioning because its medical consultants said that the procedure is not payable under the Employer Benefit Plan. The Employer states that the procedure is orthodontic in nature and, therefore, benefits are not payable under its Dental Plan either.

The Employee asks whether the proposed orthopedic repositioning is a covered benefit under the Employer Benefit Plan. The Employee's son is unable to qualify for benefits from Handicapped Children's Services because the Employee's income exceeds the level established for eligibility.

Dispute

Is the Employer responsible for providing benefits for the proposed orthopedic repositioning to be performed on the Employee's son?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing benefits for the proposed orthopedic repositioning because it is required before the alveolar bone graft can be performed.

Position of the Employer: The Employer is not responsible for providing benefits for the Employee's son's orthopedic repositioning because it is not a covered benefit under the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (3)(a) of the Employer Benefit Plan states in part:

(3) Physicians' Services and Other Primary Care

(a) Surgical Benefits

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.

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

(f) Surgical Services Limitations

Benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Such surgical procedures include, but are not limited to the following:

Plastic surgery, including mammoplasty
Reduction mammoplasty
Intestinal bypass for obesity
Cerebellar implants
Dorsal stimulator implants
Prosthesis for cleft palate if not covered by crippled children services

Organ transplants

Discussion

Article III. A. (3)(a) of the Employer Benefit Plan provides benefits for medically necessary surgical services. In addition, Article III. A. (3)(f) provides benefits for certain surgical services, including procedures to provide a prosthesis for cleft palate, if not covered by handicapped children services, subject to prior approval of the Plan Administrator.

The Employee's son's oral surgeon states that the Employee's son requires orthopedic repositioning of the bones in his palate to stabilize it for an alveolar bone graft, a surgical procedure which qualifies for coverage under Article III. A. (3) (a) of the Plan. The bone graft has not been performed because the Employer has denied prior approval for the orthopedic repositioning.

A Funds' medical consultant has reviewed the medical evidence submitted and advised that, under the particular circumstances in this case, the orthopedic repositioning is not a stand-alone procedure, but is an integral part of the overall treatment program that is centered around the bone graft which is covered under Article III. A. (3) (a). The orthopedic repositioning is medically necessary and must precede the surgical treatment (alveolar bone graft) of the Employee's son's cleft palate in order for the fistula closure to be successful. According to the consultant, a prosthesis, which covers the fistula and serves as a replacement for the palate, has an effect similar to that which can be achieved by the proposed orthopedic repositioning and surgery; however, surgical treatment can restore the function of the palate for a much longer duration and is currently the most effective and appropriate means of treatment for the Employee's son's cleft palate. Inasmuch as the insertion of a prosthesis, alone, is not the appropriate treatment in this case, but the orthopedic repositioning is, and the repositioning is an essential step in accomplishing the medically necessary alveolar bone graft to correct the Employee's son's cleft palate, the Employer's denial of prior approval is not justified in this case. Therefore, under the circumstances presented here, the Employer is responsible for providing benefits for the orthopedic repositioning procedure.

Opinion of the Trustees

The Employer is responsible for providing benefits for the Employee's son's orthopedic repositioning.