

OPINION OF TRUSTEES

---

In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-122 - October 3, 1989

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 orthodontic treatment under the terms of the Employer Benefit Plan.

Background Facts

An oral surgeon states that the Employee's daughter began experiencing pain and popping in the right temporomandibular joint after being hit in the area of the right mandible during a fight in March 1985. She was treated by a physical therapist and had splint therapy to correct her temporomandibular joint problems for about six months. In August 1985, the Employee's daughter suffered a second injury to the right side of the head. She continued having pain and popping in the right temporomandibular joint, and surgery, an arthroplasty of the joint, was performed in December 1986. The Employer provided coverage for the physical therapy, the splint therapy and the surgery to correct her temporomandibular joint problems.

In March 1988, an oral surgeon recommended orthodontic treatment to alleviate all of the Employee's daughter's symptoms. The Employee's daughter was examined by an orthodontist on May 10, 1988; he noted that she had reciprocal clicking in both temporomandibular joints, lack of proper chewing motion, limited mobility of the mandible, frequent headaches, and tenderness in the right jaw joint. Her dental findings included maxillary dental protrusion, a retruded mandible, anterior open bite and uneven upper and lower anterior teeth. The orthodontist states that the Employee's daughter's problems started when she was hit in the mouth years ago. He has-proposed a treatment plan consisting of application of orthodontic appliances (braces) to all her teeth for a period of 18-24 months to improve the bite. The Employer has denied a request for prior approval for the Employee's daughter's proposed orthodontic treatment.

Dispute

Is the Employer required to provide health benefits for the treatment proposed by the Employee's daughter's orthodontist?

Positions of the Parties

Position of the Employee: The Employer is required to provide health benefits for the Employee's daughter's proposed treatment because it is follow-up treatment to covered surgery and therapy for temporomandibular joint syndrome and because her problems are the direct result of two accidents.

Position of the Employer: The Employer is not required to provide health benefits for the Employee's daughter's proposed treatment because the services constitute orthodontic or dental treatment that is not required as the direct result of an accident and is, therefore, excluded from coverage under the Employer Benefit Plan.

Pertinent Provisions

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

(3) Physicians' Services and Other Primary Care

(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

Discussion

Article III. A. (3)(e) of the Employer Benefit Plan specifies the limited oral surgical procedures for which benefits are provided. Among those procedures is treatment for temporomandibular joint (TMJ) dysfunction under certain circumstances. Q&A 81-88 (copy enclosed herein) further indicates that the only two instances in which benefits are provided for treatment of temporomandibular joint dysfunction are when treatment involves (1) the use of corrective external appliances or (2) corrective surgery to specifically reorient the temporomandibular joint.

The Employer has provided coverage for the Employee's daughter's physical therapy, splint therapy and surgery to treat her right temporomandibular joint problems consistent with Article III. A. (3)(e) and Q&A 81-88. Orthodontic treatment using braces to prevent and correct irregularly positioned teeth and malocclusion is not a covered treatment for TMJ dysfunction.

Article III. A. (3)(e) also specifies that benefits are not provided for dental services unless required as the direct result of an accident. A Funds' medical consultant has reviewed the information provided in this case and advises that in his opinion, there is evidence of two relatively minor accidents in March 1985 and August 1985, which could have caused the Employee's daughter's initial problems of degenerative bone changes and an anteriorly displaced meniscus (ligament) of the right temporomandibular joint. As noted above, treatment of the Employee's daughter's TMJ problems was covered by the Employer. The medical consultant is of the opinion that any injuries such as lacerations or fractures severe enough to cause the Employee's daughter's dental abnormalities would have required immediate medical care. The record indicates that the Employee's daughter did not receive immediate medical care, emergency or otherwise, following the first accident in March 1985. The second accident and related medical care are well documented; however, the medical consultant finds no evidence that the dental findings described by the orthodontist were a direct result of this accident. The consultant has advised that, although the Employee's daughter's bite problems are now being attributed to her injuries of March 1985 and August 1985, he finds no medical evidence to substantiate that the patient's dental abnormalities (maxillary dental protrusion, retruded mandible, anterior open bite, and uneven upper and lower anterior teeth) were caused by injuries sustained in either of the accidents mentioned.

According to Q&A 81-15 (copy enclosed herein), dental and oral surgical procedures, including orthodontics, may also be covered under the Employer Benefit Plan when performed in a hospital as part of the treatment for an illness or injury that is otherwise a covered benefit. The medical consultant has advised that no evidence has been submitted to establish that the Employee's daughter's proposed orthodontic treatment is part of the treatment for an illness or injury which is otherwise a covered benefit. Since the treatment proposed by the Employee's daughter's orthodontist is not one of the covered procedures listed in Article III. A. (3)(e) nor part of the treatment for an illness or injury that is otherwise a covered benefit, as discussed in Q&A 81-15, such treatment is not covered under the Employer Benefit Plan.

#### Opinion of the Trustees

The Employer is not required to provide health benefits for the treatment proposed by the Employee's daughter's orthodontist.