

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-152 - October 24, 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 and oral surgery under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse has a history of popping and clicking of both temporomandibular joints, locking of her jaw and severe headaches. An oral surgeon diagnosed her as having a skeletal deformity and temporomandibular joint derangement. Initially, the Employee's spouse was fitted with an anterior repositioning splint which did not alleviate her symptoms. The oral surgeon is now recommending a course of orthodontic treatment to be followed by oral surgery--bilateral sagittal splits of the rami of the mandible with mandibular advancement. The oral surgeon further states that the Employee's spouse may eventually require an arthroplasty of the right temporomandibular joint; however, that is not being recommended at this time.

The Employer provided benefits for the anterior repositioning splint. The Employer has denied benefits for the Employee's spouse's proposed orthodontic treatment and oral surgery.

Dispute

Is the Employer required to provide benefits for the Employee's spouse's proposed orthodontic treatment and oral surgery?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's spouse's proposed orthodontic treatment and oral surgery because both are medically necessary and are covered benefits under the Employer Benefit Plan.

Position of the Employer: The Employer is not required to provide benefits for the Employee's spouse's proposed orthodontic treatment and oral surgery because neither procedures are covered under Article III. A. (3)(e) of 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

Article III. A. (11) (a) 19. of the Employer Benefit Plan states:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

19. Dental services.

#### Discussion

Under the provisions of Article III. A. (3)(e), dental services may qualify as covered benefits when they are required as the direct result of an accident. Dental services are otherwise excluded under Article III. A. (11) (a) 19., except when performed as part of the treatment for an illness or injury, pursuant to Q&A 81-15 (copy enclosed herein). Orthodontics is a branch of dentistry

which uses mechanical devices (e.g., braces) to prevent and correct irregularly positioned teeth and malocclusion. Orthodontic treatment is, therefore, a dental service and benefits are not provided under the Employer Benefit Plan, except when required as the direct result of an accident or when performed as part of a treatment for an illness or injury which is otherwise a covered benefit. There is no indication that the orthodontic treatment recommended for the Employee's spouse is required as the direct result of an accident. A Funds' medical consultant has reviewed the information submitted in this case and advised that the Employee's spouse's proposed orthodontic treatment is a dental service which is primarily intended to correct the Employee's spouse's malocclusion. The medical consultant has advised that there is no evidence that the orthodontic treatment is necessary as part of the treatment of an otherwise covered illness or injury. Inasmuch as the proposed orthodontic treatment is a dental service which is not required as the direct result of an accident nor as part of the treatment of an otherwise covered illness or injury, it is not covered under the Employer Benefit Plan.

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 dysfunction, only when medically necessary and related to an oral orthopedic problem. 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 medical consultant states that the proposed oral surgical procedure, bilateral sagittal splits of the rami of the mandible with mandibular advancement, is not among the oral surgical procedures listed as covered under Article III. A. (3)(e) of the Employer Benefit Plan. The medical consultant advises that the Employee's spouse's proposed oral surgery is primarily intended to correct an orthodontic problem, not to specifically reorient the temporomandibular joint(s). The medical consultant also advises that there is no evidence that the oral surgery is necessary as part of the treatment of an otherwise covered illness or injury. Because the proposed oral surgery is not among the oral surgical procedures listed in Article III. A. (3)(e), nor part of the treatment for an illness or injury which is otherwise a covered benefit, as discussed in Q&A 81-15, the Trustees find it is not covered under the Employer Benefit Plan.

#### Opinion of the Trustees

The Employer is not required to provide health benefits for the Employee's spouse's proposed orthodontic treatment and oral surgery.