

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-201 - December 20, 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 oral surgery under the terms of the Employer Benefit Plan.

Background Facts

An oral surgeon diagnosed the Employee's spouse as having a developmental facial bone deformity--mandibular retrognathia. The oral surgeon has proposed bilateral mandibular osteotomies with bone grafts. He stated that the proposed surgery is not cosmetic in nature nor is it related to any temporomandibular joint disease or treatment. The Employer denied health benefits coverage for the Employee's spouse's proposed treatment.

Dispute

Is the Employer required to provide health benefits for the treatment proposed by the Employee's spouse's oral surgeon?

Positions of the Parties

Position of the Employee: The Employee asks whether the proposed oral surgery is a covered benefit under the Employer Benefit Plan.

Position of the Employer: The Employer is not responsible for providing health benefits for the Employee's spouse's proposed oral surgery because it is not one of the covered oral surgical procedures under Article III. A. (3)(e), and because it is not part of the treatment of an illness or injury which is otherwise a covered benefit 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. A Funds' medical consultant has reviewed the information submitted in this case and advised that the proposed oral surgery is not among those procedures listed under Article III. A. (3)(e).

The consultant has also advised that the proposed surgery is orthodontic in nature in that it is intended to correct an overbite. According to Q&A 81-15 (copy enclosed herein), certain other dental and oral surgical procedures, including "orthodontics," may be covered under the Employer Benefit Plan only 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 the documentation provided does not establish that the proposed surgery is medically necessary to treat an otherwise covered medical condition.

Since the surgery proposed by the Employee's spouse's oral surgeon is neither one of the covered oral surgical 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 surgery 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 oral surgery.