

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-211 - February 15, 1990

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 has diagnosed the Employee's spouse as having a severe craniofacial deformity, mandibular hypoplasia (a condition of arrested development of the lower jaw), which puts undue stress on both of her temporomandibular joints. The oral surgeon performed arthroscopic surgery on both joints and initiated bite splint therapy as part of the post-surgical care. The oral surgeon stated that the splint cannot now be removed without recreating the temporomandibular joint dysfunction. A total mandibular osteotomy and possible maxillary osteotomy have been recommended. The Employer provided coverage for the arthroscopic surgery and splint therapy. However, the Employer has denied benefits for the proposed oral surgery. The Employee contends that coverage should be provided for the oral surgery because it is necessary for the correction of temporomandibular joint dysfunction.

The Employer contends that a mandibular osteotomy and a possible maxillary osteotomy are not among the covered procedures listed in Article III. A. (3) (e) of the Employer Benefit Plan and, therefore, maintains that coverage for the proposed oral surgery was properly denied.

Dispute

Is the Employer required to provide health benefits coverage for the Employee's spouse's proposed oral surgery?

Positions of the Parties

Position of the Employee: The Employer is required to provide health benefits coverage for the Employee's spouse's proposed oral surgery because it is necessary to correct a temporomandibular joint dysfunction.

Position of the Employer: The Employer is not required to provide health benefits for the Employee's spouse's proposed oral surgery because the procedures are not covered 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 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.

A Funds' medical consultant has reviewed the information submitted in this case, including two letters from the Employee's spouse's oral surgeon. The consultant noted that the Employee's spouse previously underwent arthroscopic surgery on both temporomandibular joints. The consultant advised that the medical documentation provided does not establish that the proposed surgery is medically necessary to treat any continuing temporomandibular joint dysfunction. The consultant is of the opinion that the proposed treatment is primarily intended to correct the Employee's spouse's bite problem, not to specifically reorient the temporomandibular joints. The

consultant advised that the proposed mandibular osteotomy and possible maxillary osteotomy are not among the limited oral surgical procedures covered under Article III. A. (3)(e) of the Plan.

According to Q&A 81-15 (copy enclosed herein), charges for dental and oral surgical procedures may also be covered under the Employer Benefit Plan if the procedure is 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 proposed surgery is medically necessary as part of the treatment of an illness or injury that is otherwise covered under the Employee Benefit Plan.

Since the Employee's spouse's proposed oral surgery is not 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, the proposed surgery is not covered under the Employer Benefit Plan.

Opinion of the Trustees

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