

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No. 88-280 - August 22, 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 for nasal surgery under the terms of the Employer Benefit Benefit Plan.

Background Facts

The Employee's spouse has a history of sinus complaints and headaches resulting from a nasal obstruction. On January 23, 1990, a septorhinoplasty was performed to repair the nasal septum and to reconstruct the nasal pyramid. The surgeon states that the operation was performed strictly for functional purposes and was in no way performed for any cosmetic reason. The Employer states that, upon medical review of the claim and the operative report, the proper procedure to correct the patient's nasal condition should have been a septoplasty, not a septorhinoplasty. According to the Employer, the rhinoplasty was performed solely for cosmetic reasons and is not covered under Employer Benefit Plan. Therefore, the Employer has denied benefits for the portion of the charges which it determined were for a non-covered cosmetic procedure.

Dispute

Is the Employer responsible for the provision of health benefits for the nasal surgery performed on the Employee's spouse?

Positions of the Parties

Position of the Employee: The Employer is responsible for the provision of benefits for the nasal surgery performed on the Employee's spouse because the surgery was performed for functional purposes and was not cosmetic in nature.

Position of the Employer: The appropriate treatment was a septoplasty not a rhinoplasty, a higher level procedure. The rhinoplasty was performed solely for cosmetic reasons. The Employer is not responsible for the provision of health benefits for the portion of the Employee's spouse's nasal surgery that was performed for cosmetic reasons.

Pertinent Provisions

The Introduction of Article III of the Employer Benefit Plan states in part:

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury.....

- (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 procedure (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)(p) 9. states:

- (p) Services Not Covered

9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that the Plan covers services that are necessary for the diagnosis or treatment of an illness or Injury. Benefits are provided under Article III. A. (3)(a) for surgical services for the treatment of illnesses, injuries, fractures or dislocations. However, Article III. A. (3)(p) 9. specifically excludes benefits for cosmetic surgical services unless the surgery pertains to surgical scars or to the correction of the results of an accidental injury or birth defect.

A Funds' medical consultant has reviewed the documentation in this case, including a letter from the Employee's spouse's physician and the operation record of January 23, 1990. The operating surgeon has stated that the Employee's spouse has a history of nasal obstruction with sinus complaints and headaches. The Funds' medical consultant finds that a septoplasty was indicated to relieve the patient's nasal obstruction but that there is no evidence that a rhinoplasty (reconstruction of the nasal pyramid) was required to treat a medical illness or injury. The consultant advises that the rhinoplasty was cosmetic surgery and that there is no indication that it

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was performed to correct surgical scars or to correct results of an accidental injury or birth defect.

Therefore, the Employer is not required to provide benefits for the rhinoplasty performed as part of the Employee's spouse's nasal surgery on January 23, 1990.

Opinion of the Trustees

The Employer is not required to provide benefits for the rhinoplasty performed as part of the Employee's spouse's nasal surgery on January 23, 1990.