
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-298 - November 29, 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 benefits for oral surgery for an Employee's daughter under the terms of the Employer Benefit Plan.

Background Facts

On December 27, 1989, the Employee's daughter had four impacted third molars surgically removed. The extractions were performed at the dentist's office. The dentist stated that the extractions were medically necessary due to follicular cyst formation (the accumulation of fluid in the closed dental sac surrounding a developing tooth). The Employer paid a portion of the dentist's charges under its Dental Plan, but denied benefits under the Employer Benefit Plan because the surgical services performed are not among the limited types of oral surgery covered under the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits under the Employer Benefit Plan for the extraction of the Employee's daughter's teeth?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits under the Employer Benefit Plan because the Employee's daughter's teeth were surgically removed.

Position of the Employer: The Employer is not required to provide benefits under the Employer Benefit Plan for the extraction of the Employee's daughter's teeth because such services are not among the covered oral surgical services specified under Article III. A. (3)(e) of the 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

Article III. A. (3)(e) and Article III. A (11)(a) 19. of the Employer Benefit Plan state that benefits are not provided for dental services. Article III. A. (3)(e) specifies the limited oral surgical procedures for which benefits are provided. The surgical extraction of impacted teeth is not among the procedures listed in Article III. A. (3)(e). According to Q&A 81-15 (copy enclosed

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herein), certain dental and oral surgical procedures, including the extraction of teeth, are covered under the Employer Benefit Plan when performed in a hospital as part of a treatment for an illness or injury which otherwise is a covered benefit. The Employee's daughter's surgical extraction of impacted third molars took place in a dentist's office.

Inasmuch as the Employee's daughter's oral surgery is not among the limited procedures covered under Article III. A. (3)(e) and was not performed in a hospital as required in Q&A 81-15, coverage is not available under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to provide benefits under the Employer Benefit Plan for the extraction of the Employee's daughter's teeth.