
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-303 - November 8, 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 a Pensioner's spouse under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse underwent surgery on the right temporomandibular joint in December 1987. The charges related to that surgery are not in dispute. In September 1989, she was seen by her dentist who noted significant bone loss in the lower jaw that was causing pain and interfering with her ability to chew food properly. He recommended a bone graft and vestibuloplasty to restore proper functioning of the lower jaw. The Employer denied a request for prior approval for the surgery, stating that the proposed procedures are not covered under the oral surgical provisions of its medical plan (the Employer Benefit Plan).

In November 1989, the Pensioner's spouse was seen by the oral surgeon who had performed her previous surgery. He also recommended that she undergo reconstruction of the mandible under general anesthesia in the outpatient department of a hospital and requested prior approval for the proposed procedures a synthetic bone graft and vestibuloplasty (soft tissue connection). The Employer again denied benefits for the proposed procedures under the Employer Benefit Plan, and the Pensioner was notified that the proposed oral surgery could not be covered under the Employer's Dental Plan because the Pensioner and his spouse did not have dental coverage.

On April 6, 1990, following another examination of the Pensioner's spouse, the oral surgeon provided an additional statement indicating that the malfunctioning of the patient's upper and lower jaws was aggravating her temporomandibular joint condition. He stated that the proposed oral surgery is necessary to prevent the need for further surgery on the temporomandibular joint. The Pensioner's spouse was again seen by the oral surgeon on May 10, 1990 for evaluation and treatment of worsening symptoms resulting from the degenerative changes in the lower jaw. The oral surgeon reiterated the need for the proposed oral surgery to restore normal size and shape to the lower jaw.

The Employer has denied repeated requests for prior approval of coverage under the Employer Benefit Plan for the proposed oral surgery and the hospital charges associated with the proposed oral surgery.

Dispute

Is the Employer required to provide benefits for the Pensioner's spouse's proposed oral surgery under the terms of the Employer Benefit Plan?

Positions of the Parties

Position of the Complainant: The Employer is required to provide benefits under the Employer Benefit Plan for the Pensioner's spouse's proposed oral surgery because the procedure is a medical, rather than a dental, procedure.

Position of the Employer: The Employer is not required to provide benefits under the Employer Benefit Plan for the Pensioner's spouse's proposed oral surgery because it is not among the oral surgical procedures covered under Article III. A. (3)(e) of the Plan, and it is not part of the treatment for a medical condition that is otherwise covered under the Plan. Furthermore, there is no evidence of a preexisting medical condition that would justify payment for the hospital charges associated with the proposed surgery.

Pertinent Provisions

Article III. A. (1)(g) of the Employer Benefit Plan states:

- (1) Inpatient Hospital Benefits
- (g) Oral Surgical/Dental Procedures

Benefits are provided for a Beneficiary who is admitted to a hospital for the oral surgical procedures described in paragraph (3)(e) provided hospitalization is medically necessary.

Benefits are also provided for a Beneficiary admitted to a hospital for dental procedures only if hospitalization is necessary due to a preexisting medical condition and prior approval is received from the Plan Administrator.

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 surgery for temporomandibular joint dysfunction, under certain circumstances. A Funds' medical consultant has reviewed this case and has advised that the proposed bone grafting and vestibuloplasty of the mandible are not among the oral surgical procedures covered under the Employer Benefit Plan. The consultant has advised that there is inadequate medical documentation of a temporomandibular joint condition that would require surgical intervention and that the proposed surgery is not designed to specifically reorient the temporomandibular joint.

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 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 oral surgery is medically necessary as part of the treatment of an otherwise covered medical condition.

Article III. A. (1)(g) of the Employer Benefit Plan provides benefits for medically necessary hospitalization when the admission is for an oral surgical procedure listed in Article III. A. (3)(e). Benefits are also provided when hospitalization for a dental procedure is necessary due to a beneficiary's preexisting medical condition and prior approval has been received from the Plan Administrator. The Employer in this case has denied requests for prior approval for the Pensioner's spouse's proposed oral surgery and related hospital and anesthesia charges. The Funds' medical consultant has advised that there is no evidence of a pre-existing medical condition that would necessitate hospitalization for the proposed procedures.

Inasmuch as the proposed oral surgical procedures are not among the covered oral surgical procedures listed in Article III. A. (3)(e), the proposed surgery is not part of the treatment for an illness or injury that is otherwise a covered benefit, and there is no evidence of a preexisting medical condition that would necessitate hospitalization for the surgery, the Employer is not required to provide benefits under the Employer Benefit Plan for the Pensioner's spouse's proposed oral surgery.

Opinion of the Trustees

The Employer is not required to provide benefits under the Employer Benefit Plan for the Pensioner's spouse's proposed oral surgery.