

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-308 - October 4, 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 oral surgery under the terms of the Employer Benefit Plan.

Background Facts

On June 7, 1988, the Employee's son had three impacted wisdom teeth surgically removed in a dentist's office. The Employer initially paid the dentist's charges in full under the Employer Benefit Plan. However, the claim was later reviewed and the Employer determined that the charges were paid incorrectly because they had been considered under the Employer Benefit Plan instead of the Employer's Dental Plan. As a result, the Employer has requested a refund of that portion of its payment that exceeded the schedule of benefits payable under its Dental Plan.

Dispute

Is the Employer required to pay the charges for the extraction of the Employee's son's wisdom teeth under the Employer Benefit Plan?

Positions of the Parties

Position of the Employee: The Employer is required to pay the charges in full under the Employer Benefit Plan for the extraction of the Employee's son's wisdom teeth.

Position of the Employer: The Employer is not required to pay the charges in question under the Employer Benefit Plan because the extraction of wisdom teeth is not among the limited oral surgical procedures covered under the Plan.

Pertinent Provisions

Article III. A. (3) (e) of the Employer Benefit Plan states:

(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 stipulate that benefits are not provided for dental services under the Plan. Article III. A. (3)(e) specifies the limited oral surgical procedures for which benefits are provided. The surgical extraction of impacted wisdom teeth is not among those procedures covered by the Plan. According to a & A 81-15 (copy enclosed herein), certain dental and oral surgical procedures, including the extraction of teeth, are covered under the Employer Benefit Plan only when performed in a hospital as part of the treatment for an illness or injury which is otherwise a covered benefit.

The Employee's son's oral surgery was performed in a dentist's office. Although the charges were initially paid in full, the Employer has requested a refund of the amount which it determined was paid in error under the Employer Benefit Plan and which exceeds the maximum benefits payable

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for such services under the Dental Plan. Inasmuch as the Employee's son'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 pursuant to a & A 81-15, benefits are not available under the Employer Benefit Plan, and the Employer is justified in seeking a refund of the amount paid under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to pay the charges for the extraction of the Employee's son's wisdom teeth under the terms of the Employer Benefit Plan.