
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-323 - October 25, 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 dental services for an Employee's daughter under the terms of the Employer Benefit Plan.

Background Facts

The Employee's daughter, who is severely retarded, has multiple birth defects and a seizure disorder, required treatment for badly decayed teeth and red and swollen gums. She was hospitalized on October 3, 1989 for extensive dental work including fillings; extractions, root planing, and gingivectomy (surgical removal of diseased or infected tissue of the gums). The Employee has stated that his wife contacted the Employer's insurance carrier before the dental work was done and was advised that the services would be covered under the Employer Benefit Plan.

The Employer provided benefits for the hospital charges under the Employer Benefit Plan. However, the Employer has denied benefits under the Employer Benefit Plan for the dental services. The Employer provided benefits for the dental services up to the scheduled amounts payable under its Dental Plan and states that the Employee is liable for payment of the remainder of the dentist's charges.

Dispute

Is the Employer required to provide benefits under the Employer Benefit Plan for the Employee's daughter's dental services performed on October 3, 1989?

Positions of the Parties

Position of the Complainant: The Employer is required to provide benefits under the Employer Benefit Plan for the dental services because the Employee's daughter's physician had referred her to the dentist for treatment and a representative of the Employer's insurance carrier had advised the Employee's wife that the services would be covered under the Employer Benefit Plan.

Position of the Respondent: The Employee's wife was advised that the hospital charges related to the dental services would be covered under the Employer Benefit Plan and she assumed that the dental services would also be covered under that Plan. The Employer is not required to provide benefits under the Employer Benefit Plan for the dental services performed on October 3, 1989. Rather, the dental services are covered under the Dental Plan up to the maximum scheduled allowance for each procedure, and the Employee is responsible for payment of the balance.

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

Under Article III. A. (3)(e) and Article III. A. (11)(a)19. of the Employer Benefit Plan, benefits for dental services are excluded except when required as the direct result of an accident. The dental treatment performed in this case consisted of extractions, fillings, root planing and gingivectomy. These services were not required as the result of an accident and are not among the limited oral surgical procedures covered by the Employer Benefit Plan.

According to Q&A 81-15 (copy enclosed herein], certain dental and oral surgical procedures 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 daughter's dental services were performed to treat her decayed teeth and gum disease. There is no indication that the procedures performed in this case were performed as part of the treatment for an otherwise covered illness or injury.

Inasmuch as the Employee's daughter's dental services are not among the limited procedures covered under Article III. A. (3)(e) and were not performed as part of the treatment for an otherwise covered illness or injury, benefits are not available under the Employer Benefit Plan. Although the Employee claims that prior to his daughter's admission he was advised that benefits would be paid, there is no supporting evidence to substantiate this claim.

Opinion of the Trustees

The Employer is not required to provide benefits under the Employer Benefit Plan for the dental services provided to the Employee's daughter on October 3, 1989.