

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-355 - March 12, 1991

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 orthodontic treatment for an Employee's son under the terms of the Employer Benefit Plan.

Background Facts

The Employee's son was born with a cleft lip and palate and has undergone numerous surgical procedures to correct related conditions. According to his physician, the Employee's son has serious orthodontic problems, including a deformity of the alveolar gums and a significant malrotation of two front teeth which has affected speech formation. An orthodontist examined the Employee's son and has proposed treatment through orthopedic means to expand the upper jaw and push the upper jaw and teeth forward in order to correct his bite. The orthodontist has stated that, without this treatment, the Employee's son will need surgery on both jaws in the future; however, the need for surgery will be diminished if the orthodontic treatment is performed.

The Employer has denied benefits for the Employee's son's proposed orthodontic treatment, stating that the treatment is a dental service and, as such, is not a covered benefit under the Employer Benefit Plan. The Employer has also stated that this case does not involve the limited circumstances referred to in Q&A 81-15 under which benefits for orthodontic treatment may otherwise be provided.

Dispute

Is the Employer required to provide benefits under the Employer Benefit Plan for the Employee's son's proposed orthodontic treatment?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's son's proposed orthodontic treatment because such treatment is needed to correct a medical problem.

Position of the Employer: The Employer is not required to provide benefits for the Employee's son's proposed orthodontic treatment because such treatment is a dental service and, as such, is not a covered benefit under the Employer Benefit Plan. In addition, this case does not involve the limited circumstances under which the proposed orthodontic treatment might otherwise be covered pursuant to Q&A 81-15.

Pertinent Provisions

Article III. A. (33(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. (113(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 the provisions of Article III. A. (3)(e), dental services may qualify as covered benefits when they are required as the direct result of an accident. Dental services are otherwise excluded under Article III. A. (113(a) 19., except when performed in a hospital as part of the treatment for

an illness or injury which is otherwise a covered benefit, pursuant to Q&A 81-15 (copy enclosed herein).

Orthodontics is a branch of dentistry which uses mechanical devices (e.g., braces) to prevent and correct irregularly positioned teeth and malocclusion. Orthodontic treatment is, therefore, a dental service and benefits are not provided under the Employer Benefit Plan, except when required as the direct result of an accident or when performed in a hospital as part of a treatment for an illness or injury which is otherwise a covered benefit. There is no indication that the orthodontic treatment recommended for the Employee's son in this case is required as the direct result of an accident.

A Funds' medical consultant has reviewed the information submitted in this case and has advised that the proposed procedures are not among the covered procedures listed in Article III. A. (3)(e) of the Plan. The consultant has advised that the proposed procedures are orthodontic in nature and are primarily intended to correct a bite problem. The medical consultant has further advised that the documentation provided does not adequately establish that the proposed orthodontic treatment is medically necessary as part of the treatment of the Employee's son's congenital problems and such treatment would not be done in a hospital, as required under Q&A 81-15. Inasmuch as the proposed orthodontic treatment is a dental service which is not among the limited procedures covered under Article III. A. (3)(e) and which would not otherwise qualify for coverage under Q&A 81-15, it is not covered under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to provide health benefits for the Employee's son's proposed orthodontic treatment.