

---

## OPINION OF TRUSTEES

---

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 88-388 - February 26, 1992

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 nasal surgery under the terms of the Employer Benefit Plan.

### Background Facts

The Pensioner's son was seen by an ear, nose and throat specialist who has stated that the patient had a documented history of sinus infections and nasal congestion. Upon examination, that included computerized axial tomography (CT) scans and sinus x-rays, the specialist noted a severe leftward deviated nasal septum, the presence of bilateral sinus disease and a polyp arising on the right maxillary sinus. He recommended a septoplasty (reconstruction of the nasal septum) to correct the obstructed airways and a nasal endoscopy for removal of the polyp. On March 27, 1990, the Pensioner's son underwent nasal surgery in an outpatient setting.

The Employer has denied benefits for the Pensioner's son's nasal surgery because prior approval was not obtained from the Plan Administrator.

### Dispute

Is the Employer required to provide benefits for the Pensioner's son's nasal surgery on March 27, 1990?

### Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the Pensioner's son's nasal surgery under Article III. A. (2) (b) of the Employer Benefit Plan.

Position of the Employer: The Employer Is not required to provide benefits for the Pensioner's son's nasal surgery because prior approval of the Plan Administrator was neither requested nor granted, as required under the terms of Article III. A. (3)(f) of the Employer Benefit Plan.

#### Pertinent Provisions

Article III. A. (3) (a) and (f) of the Employer Benefit Plan provide in pertinent part:

(3) Physicians' Services and Other Primary Care

(a) Surgical Benefits

Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedure (including the usual and necessary post-operative care) for the treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

(f) Surgical Services Limitations

Benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Such surgical procedures include, but are not limited to, the following:

Plastic surgery, including mammoplasty  
Reduction mammoplasty  
Intestinal bypass for obesity  
Gastric bypass for obesity  
Cerebellar implants  
Dorsal stimulator implants  
Prosthesis for cleft palate if not covered by crippled children services  
Organ transplants

#### Discussion

Article III. A. (3)(f) of the Employer Benefit Plan specifies that benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Among such surgical services is plastic surgery.

The Employer In this case contends that benefits are not payable under Article III. A. (3)(f) of the Plan because the Pensioner did not seek or receive prior approval for his son's nasal surgery. The Employer states that septoplasty is a form of plastic surgery requiring prior approval. Plastic surgery is the restoration and repair of external physical defects by use of grafts of bone or tissues. The septoplasty performed in this case was to correct internally obstructed airways and, as such, would not fall within the definition of plastic surgery. An example of

plastic surgery is rhinoplasty (plastic surgery of the nose) with septoplasty, which may be performed for cosmetic purposes, as well as to improve breathing, and would properly be considered plastic surgery within the meaning of Article III. A. (3)(f) of the Plan. The procedure of septoplasty alone does not serve a cosmetic purpose and, as such, is not a plastic surgery that would require prior approval.

Article III. A. (3) (a) of the Employer Benefit Plan provides benefits for surgical services essential to a Beneficiary's care which are performed either In or out of a hospital by a physician. A Funds' medical consultant has reviewed the information submitted in this case, including clinical records, x-ray reports and CT scan studies. The consultant has advised that the procedure was performed to treat the condition of chronic bilateral maxillary sinusitis and deviated nasal septum. The consultant further advises that the procedure was medically necessary and was not performed for cosmetic purposes.

Since the Pensioner's son's nasal surgery does not fall within the definition of plastic surgery for which prior approval is required under Article III. A. (3)(f), but was medically necessary for the treatment of the Pensioner's son's nasal and sinus problems, it is covered under Article III. A. (3) (a) of the Employer Benefit Plan.

#### Opinion of the Trustees

The Employer is required to provide health benefits for the Pensioner's son's nasal surgery on March 27, 1990.