

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-489 - October 28, 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 a disabled Employee under the terms of the Employer Benefit Plan.

Background Facts

On October 18, 1990, the Employee's spouse consulted a dental surgeon for the evaluation and treatment of severe facial swelling. The patient was scheduled for surgery on October 31, 1990. The dental surgeon extracted five abscessed teeth, performed an enucleation of an enlarged maxillary cyst, a biopsy to rule out malignancy, and an immediate reconstruction of the left maxillary defect with bone graft material. The biopsy confirmed a pre-operative diagnosis of a large odontogenic cyst of the left maxilla. The Employee has stated that the company administrator gave prior approval for the procedure.

The Employer provided benefits for the dental services up to the scheduled amounts payable under its Dental Plan, and denied medical benefits under the Employer Benefit Plan for the remaining charges on the grounds that the services were dental services, and not covered by the Employer's Medical Benefit Plan.

Dispute

Is the Employer required to provide benefits under the Employer Benefit Plan for charges related to the Employee's spouse's oral surgery on October 31, 1990?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits under the Employer Benefit Plan because the company administrator approved the surgical procedure, and the doctor certified that the procedure was, in fact, a medical procedure.

Position of the Employer: The Employer is not required to provide benefits because the dental services performed are not covered under the Employer's Medical Benefit Plan and the Plan Administrator did not give prior approval for the procedure.

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) 19 states in pertinent part:

(11) General Exclusions

19. Dental services

Discussion

Under Article III. A. (3)(e) of the Employer Benefit Plan, benefits are provided for a limited number of oral surgical procedures, including tumors of the jaw. Although the patient asserts she was initially given the diagnosis "tumor of the jaw," the pre- and post-operative record indicates a diagnosis of a maxillary cyst and multiple abscessed teeth.

A Funds' medical consultant has reviewed the operative report and states that, in his opinion, the report indicates that the maxillary cyst was contiguous with the most posterior of the five abscessed teeth, and that the procedure was clearly done to treat the obviously abscessed teeth and not to evaluate and treat a potentially malignant tumor of the maxilla. A cyst, as defined in Dorland's Medical Dictionary is "a sac, normal or abnormal, which contains a liquid or semi-solid material".

The pre- and post-operative diagnosis contained in the operative report was "left maxillary odontogenic cyst". Since this was clearly a cyst, and not a tumor of the jaw, it would not be covered under the Employer Benefit Plan. The Plan is specific about the inclusion of procedures for tumors of the jaw, (maxilla and mandible). A tumor, also defined in Dorland, is "a mass of new tissue which persists and grows independently of its surrounding structures, and which has no physiologic use". The consultant concludes that the procedure performed was dental in nature and clearly not one of the oral surgical procedures covered by Article III. A. (3)(e) of the Employer Benefit Plan. In addition, the consultant found no evidence in the record of a pre-existing medical illness or condition requiring hospitalization which might provide coverage under Article III. A. (1)(g), and dental services are excluded under Article III. A. (11) 19 of the Employer Benefit Plan.

Article III. A. (3)(e) of the Employer Benefit Plan provides benefits for biopsies of the oral cavity. According to the records received, a biopsy was performed by the hospital on the removed cyst and the cystic fluid. The Employer is required to provide benefits for any charges from the hospital in connection with the actual biopsy of the cyst, as stipulated in Article III. A. (3)(e) of the Employer Benefit Plan.

The issue of prior approval has been raised by both sides; however, the Plan does not require prior approval for covered oral surgical procedures. Therefore, the Trustees conclude that since the surgical services were not medical in nature, as described in Article III. A. (3)(e) of the Employer Benefit Plan, the Employer is not required to provide benefits for the hospital charges, and the surgeon and anesthesiology charges in relation to the oral surgery performed on October 31, 1990.

Opinion of the Trustees

The Employer is not required to provide benefits for hospital, anesthesia or surgical charges in relation to the Employee's spouse's oral surgery on October 31, 1990. The Employer is, however, required to provide benefits for the biopsy of the oral cavity as stipulated in Article III. A. (3)(e).