

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No.: 88-622 - November 20, 1995

Trustees: Thomas F. Connors, Michael H. Holland, Marty D. Hudson and Robert T. Wallace.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits for an orthodontic prosthetic device to treat Temporomandibular Joint Dysfunction under the terms of the Employer Benefit Plan.

Background Facts

On December 31, 1985 at approximately 5:00 p.m. the Employee's 2-3/4 year old daughter fell approximately six feet off the side of the basement stairs onto the concrete basement floor, landing on her face. She was taken to a local hospital emergency room where her injuries were diagnosed as four loose teeth, a bloody nose, and cuts on the inside and outside of her mouth. She was further examined by an ear, nose and throat specialist who took x-rays and stitched up the cuts in her mouth. The hospital physician referred her to an oral surgeon for follow-up care, and he diagnosed a fracture of the maxillary (upper jaw) alveolar ridge from the same fall.

The Employee's daughter later developed a clicking or popping in her jaw when fully opening her mouth, and a slight clinical click on closing. The Employee states that his daughter started to bite the insides of her mouth and tongue, began to experience headaches, and started to snore. The oral surgeon diagnosed the Employee's daughter's condition as Temporomandibular Joint (TMJ) Dysfunction, secondary to the fracture of the maxillary alveolar ridge suffered on December 31, 1985. In August, 1988 the Employee's daughter (who was then 5 years old) was fitted with a bionator, an oral orthopedic appliance which aids in maintaining proper bite. The oral surgeon's records indicate that the bionator was to be used for 12 - 14 months, at a total cost of \$1,250.00. The Employee stated that his daughter's condition improved after wearing the bionator; the painful clicking in her jaw subsided, the biting of her tongue and the insides of her mouth ceased, as did her headaches and snoring.

The Employee submitted the bill for \$1,250.00 to the Employer, which denied the charges, as not among the limited oral surgical procedures provided for in Article III.A.(3)(e) of the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits for the oral orthopedic device prescribed by an oral surgeon to treat the Employee's daughter's Temporomandibular Joint Dysfunction?

Position of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's daughter's oral orthopedic device because it was prescribed in connection with treatment of injuries she sustained in an accident, and which are considered eligible under the terms of the Employer Benefit Plan.

Position of the Employer: The Employer is not required to provide benefits for the Employee's daughter's dental treatment because the treatment was determined to be inappropriate for a child her age, and because after several reviews it was not established that the diagnosis and treatment was in any way associated with the fall she sustained on December 31, 1985. The Employer further stated that the treatment itself was not among the limited oral surgical procedures provided for in Article III.A.(3)(e) of the Employer Benefit Plan.

Pertinent Provisions

The Introduction of Article III states in pertinent part:

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan...

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 a direct result of an accident

Q&A 81-16 states:

Subject: Hospitalization and Professional Services for Dental Procedures

References: Amended 1950 & 1974 Benefit Plans & Trusts,
Article III, Sections A (1), A (3)(d) and (e) and A (11) 19

Question:

1. Is oral surgery a covered benefit?
2. Are dental services a covered benefit?
3. Are hospitalization charges for semi-private room and board related to a non-covered dental procedure covered under the Plan?
4. Are benefits provided for the medically necessary services (enumerated in Article III, Section A (1), (2) and (3)) in connection with hospitalization for a non-covered dental procedure?
5. Are benefits provided for physician services (enumerated in Article III, Section A (3)) in connection with a hospitalization for a non-covered dental procedure?

Answer:

1. Yes, if such surgery receives the prior approval of the Plan Administrator and is performed in a hospital and hospitalization is medically necessary, benefits are provided for oral surgery treating

- * tumors of the jaw
- * fractures of the jaw, including reduction and wiring
- * fractures of the facial bones
- * frenulectomy, when related to ankyloglossia
- * temporomandibular joint dysfunction, only when medically necessary and related to an oral orthopedic problem.
- * biopsy of lesions of the oral cavity

* dental services required as a result of an accident

2. No.

3 & 4. No, except when, 1) hospitalization is medically necessary because of pre-existing medical condition, and 2) prior authorization has been obtained from the Plan Administrator.

5. No, except for the treatment of a medical condition for which benefits would otherwise be provided.

Q&A 81-88 states:

Subject: Oral Orthopedics

References: Amended 1950 a 1974 Benefit Plans a Trusts,
Article III, Section A (3) (e) and (m), and A (11) (a) 19

Question:

Are benefits provided for treatment of Temporomandibular Joint Dysfunction?

Answer:

No, except when treatment involves:

1. the use of corrective external orthopedic appliances; or
2. corrective surgery to specifically reorient the temporomandibular joint.

Benefits are not provided for treatment for T.M.J. which involves the insertion of dentures.

Discussion

Article III. A. (3)(e) of the Employer Benefit Plan specifies the limited oral surgical procedures for which benefits are provided. Question and Answer (Q&A) 81-16 concerns the eligibility for oral surgical benefits when performed in a hospital setting. It stated that benefits would be provided for any oral surgical procedure performed in a hospital if; the hospitalization is medically necessary, the Plan Administrator had given prior approval, and the proposed surgery is listed among the procedures covered by Article III.A.(3)(e). Additionally, if hospitalized for a non-covered dental procedure, room and board charges and other medically necessary services would only be covered if the hospitalization was medically necessary because of a pre-existing

medical condition, and prior authorization had been obtained from the Plan Administrator. Physician's services would not be covered unless they were treating a medical condition for which benefits would otherwise have been provided.

Q&A 81-88 concerns the use of oral orthopedics in treating temporomandibular joint (TMJ) dysfunction, noting that the Plan does not cover oral orthopedics unless the treatment involves the use of corrective external orthopedic appliances, or unless corrective surgery is performed to specifically reorient the temporomandibular joint.

On December 31, 1985 the Employee's daughter fell from the basement stairs onto the concrete floor. At the time of the fall she was taken to a hospital and treated for her injuries. She was seen by two different oral surgeons for follow-up treatment beginning January 2, 1986. In August, 1988 an oral surgeon fitted her with a bionator, an oral orthopedic device used to maintain correct bite. The Employee states that his daughter's symptoms improved after wearing the bionator.

The Employee submitted the bill for \$1,250 to the Employer. After review by the Employer's claims administrator, the charges were denied because the treatment was determined to be inappropriate for a child her age.

The Employer set up an independent dental examination for the Employee's daughter in response to the Employee's appeal of the original denial. The results of the examination, along with the medical records from the Employee's daughter's dentist, were reviewed by the Employer's claims administrator's dental consultant who upheld the original denial. The dental consultant stated that the treatment was not indicated for a five year old child, and for this reason, would be ineligible for benefits under the Employer Benefit Plan.

The Employee's daughter's dentist appealed the dental consultant's denial. The Employer offered to pay for a third opinion, and if that opinion did not agree with the opinion of the Employee's daughter's dentist, then a peer review opinion could be obtained. The Employee did not pursue the matter, and the third opinion was never obtained. The Employee's claims administrator notes that no further communication took place.

A Funds' medical consultant has reviewed this file which includes letters from the dentists who examined and treated the Employee's daughter, as well as x-rays, test results, photographs, and hospital records. It is the consultant's opinion that the records provided do not link the fall on December 31, 1985 to the patient's subsequent treatment of her TMJ dysfunction. The records also did not demonstrate the medical necessity and appropriateness of the treatment in contradiction with the conclusion of the dental consultant to the claims administrator who concluded it to be inappropriate treatment for TMJ syndrome for a five year-old. Therefore, since the treatment cannot be linked to the fall, the charges would not be eligible as dental treatment rendered as a direct result of an accident. Since the treatment was found to be medically inappropriate, the charges are ineligible for benefits as treatment for TMJ dysfunction as provided under Article

Opinion of Trustees

ROD Case No. 88-622

Page 6

III.A.(3)(e) of the Employer Benefit Plan. For these reasons the Trustees conclude that the oral orthopedic device would not be eligible for benefits under the Plan.

Opinion of Trustees

The Employer is not required to provide benefits for the bionator, an oral orthopedic appliance purchased for the Employee's daughter.