

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-695 - December 15, 1993

Board of Trustees: Michael H. Holland, Chairman; Thomas F. Connors, Trustee; Marty D. Hudson, Trustee; Robert T. Wallace, Trustee.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits for oral surgery under the terms of the Employer Benefit Plan.

Background Facts

On March 25, 1992, an oral surgeon requested prior authorization from the Employer's insurance carrier to perform two oral surgical procedures on the Employee's twenty-year-old dependent son. The proposed procedures were bilateral split mandibular osteotomies and anterior mandibular segmental subapical osteotomy. The diagnosis was mandibular retrognathia with Class II, deepbite malocclusion. The oral surgeon has stated that this diagnosis results in bilateral joint and jaw muscle pain and joint clicking, which prevent the Employee's son from chewing normally and cause pain that interferes with normal activities. According to the oral surgeon, jaw devices, which have already been used to reposition the jaw forward, have improved symptoms related to the temporomandibular joints. The oral surgeon stated that the proposed oral surgical procedures can make the Employee's son's condition more tolerable and allow him to lead a more normal life and may ameliorate both muscle and joint symptoms.

The insurance carrier denied prior authorization for the proposed oral surgical procedures, stating that the procedures are not listed among the limited oral surgical procedures covered under the Employer Benefit Plan.

Dispute

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

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's son's proposed oral surgery because the procedures are medically necessary and because the West Virginia state legislature passed legislation mandating insurance coverage for treatment of temporomandibular joint dysfunction.

Position of the Employer: The Employer is not required to provide benefits for the Employee's son's proposed oral surgery because the proposed procedures are not among the covered procedures listed under Article III. A. (3)(e) of the Employer Benefit Plan.

#### Pertinent Provisions

Article III. A. (3)(e) of the Employer Benefit Plan states:

#### (3) Physician's 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

#### Discussion

Article III. A. (3)(e) of the Employer Benefit Plan specifies the limited oral surgical procedures for which benefits are provided. Q&A 81-88 (copy enclosed herein) further indicates that the only two instances in which benefits are provided for treatment of temporomandibular joint dysfunction are when treatment involves (1) the use of corrective external orthopedic appliances, or (2) corrective surgery to specifically reorient the temporomandibular joint. A Funds' medical consultant has reviewed the information submitted in this case and has advised that the proposed procedures of bilateral sagittal split mandibular osteotomies and anterior mandibular segmental subapical osteotomy are not among the limited oral surgical procedures covered by Article III. A. (3)(e) of the Employer Benefit Plan. Further, the consultant states that there is no documentation that the patient has temporomandibular joint dysfunction causing medical problems requiring therapy to specifically reorient the temporomandibular joint. Because the Employee's son's proposed surgery is not listed among the limited oral surgical procedures covered under the Employer Benefit Plan, the Trustees conclude that the Employer is not required to provide benefits for the Employee's son's proposed surgery.

Whether state regulations mandating insurance coverage for certain treatments for temporomandibular joint dysfunction override the provisions of the Employer Benefit Plan is not an issue to be resolved through a Resolution of Dispute. The opinion of the Trustees is

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concerned solely with whether the proposed procedures fall within the limits of oral surgical procedures 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 oral surgery.