

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-859 - May 15, 1997

Trustees: Thomas F. Connors, Michael H. Holland, Marty D. Hudson, and Elliot A. Segal.

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

Background Facts

The Pensioner previously had an extensive jaw resection for a malignancy of the mandible (lower jaw). Coverage for this operation is not in question. Subsequent biopsies of the surgical site confirmed that the malignancy had been completely cut out. In October 1992, he was admitted to the hospital where bone tissue from his hip was grafted to his jaw. This reconstruction was done to restore normal speech and mastication functions which were severely impaired following the initial resection.

The Employer has denied benefits for the surgical procedures performed in October, 1992, stating that the charges were for services only covered under the dental plan and that as a retiree, the Pensioner had no dental coverage. The Employer also stated that prior approval was not secured for the hospitalization.

Dispute

Is the Employer required to provide benefits for the services in October, 1992, related to the Pensioner's reconstructive surgery?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the reconstructive surgery because the services were medically necessary to restore functions destroyed by the previous surgery for cancer.

Position of the Employer: The Employer is not required to provide benefits for the reconstructive surgery because the Pensioner was not covered for these dental services. Further, the Pensioner did not secure prior approval from the Plan Administrator for the hospitalization.

Pertinent Provisions

Article III A. (1) (g) of the Employer Benefit Plan states, in pertinent part:

(1). Inpatient Hospital Benefits

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(g) Oral Surgical/Dental Procedures

Benefits are provided for a Beneficiary who is admitted to a hospital for the oral surgical procedures described in paragraph (3)(e) provided hospitalization is medically necessary.

Benefits are also provided for a Beneficiary admitted to a hospital for dental procedures only if hospitalization is necessary due to a pre-existing medical condition and prior approval is received from the Plan Administrator.

Article III A. (3) (e) of the Employer Benefit Plan states, in pertinent part:

(3) Physician's Services and Other Primary Care

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(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

Discussion

Article III A. (1) (g) provides benefits for hospitalization for certain covered oral surgery when the hospitalization is medically necessary. Article III A. (3) (e) provides benefits for specified oral surgical procedures performed by a dental or general surgeon, including tumors of the jaw (maxilla and mandible).

A Fund's medical consultant has reviewed the documentation submitted with this case and is of the opinion that the surgery was medically necessary. Further, since the surgery was part of the treatment of the patient's cancerous tumor of the mouth and mandible, it is among the covered oral surgery procedures specified in Article III A. (3) (e).

Article III. A. (1) (g) does not require prior approval for hospitalization in connection for oral surgical procedures described in paragraph (3) (e) provided the hospitalization is medically necessary.

In this case, the reconstructive surgery was performed to restore normal functioning impaired as a result of previous treatment to remove a cancerous tumor. Since the procedure was medically necessary and is covered under the medical portion of the Employer Benefit Plan, the Employer is required to provide benefits for the Pensioner's reconstructive surgery in October, 1992.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is required to provide benefits for the Pensioner's reconstructive surgery in October, 1992.