

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-077 - January 23, 1997

Trustees: Thomas F. Connors, Michael H. Holland, Donald E. Pierce, Jr., and Elliot A. Segal.

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

Background Facts

The Employee's son was born with a jaw deformity. On June 2, 1995, the physician requested a preoperative benefit determination for the proposed surgery to correct the musculoskeletal deformities which included internal derangement of the right temporomandibular joint. The physician states that the surgery is neither a dental nor a cosmetic procedure.

The Employer denied benefits under the medical section of the Employer Benefit Plan, stating that the surgery was not one of the approved oral surgeries permitted under the Plan. The Employee has requested an exception in this case since he is not financially able to pay for the surgery himself.

Dispute

Is the Employer required to provide benefits for the Employee's son's oral surgery under the medical section of the Employer Benefit Plan.

Positions of the Parties

Position of the Employee: The Employee asks that an exception be made requiring the Employer to pay for the oral surgery under the medical section of the Employer Benefit Plan since the Employee is in no position to pay himself.

Position of the Employer: The Employer is not required to pay for the oral surgery since it is not one of the oral surgery procedures covered under the medical section of the Employer Benefit Plan.

Pertinent Provisions

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

Article III A. (11) (a) 19. of the Employer Benefit Plan states:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

- 19. Dental services.

Discussion

Article III A. (3) (e) provides benefits for specifically listed oral surgical procedures. Article III A. (11) (a) 19. excludes benefits for dental services.

A Funds' medical consultant has reviewed the medical documentation in this case and has concluded that there is no evidence of a significant temporomandibular joint problem nor that the surgery was directed to specifically reorient the temporomandibular joint(s). He further concludes that the procedures proposed are not among those specifically covered by the medical section of the Employer Benefit Plan.

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Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the Employee's son's oral surgery under the medical section of the Plan.