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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-102 – March 17, 2000

Trustees: A. Frank Dunham, 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 benefits for orthodontic treatment under the terms of the Employer Benefit Plan.

Background Facts

On June 17, 1991, the Employee's daughter was involved in a head-on collision in which she sustained multiple fractures of the skull and facial bones, as well as fractures of the humerus and femur. The skull fractures resulted in permanent brain damage with residual mental and motor impairment.

According to her dental surgeon, she had severe skeletal mid-face deficiency in front-to-back dimension which may have resulted from the trauma and subsequent wiring received at the time of her accident. The dental surgeon recommends the application of braces or oral surgery to correct the deficiency. The Employer has denied the Employee's request to provide medical benefits.

Dispute

Is the Employer required to provide benefits for the Employee's daughter's braces or oral surgery?

Positions of the Parties

Position of the Complainant: The Employer is required to provide benefits for the Employee's daughter's braces or oral surgery because the treatment is medically necessary.

Position of the Respondent: The Employer is not required to provide benefits for the Employee's daughter's braces or oral surgery because the services required are not a direct result of an accident, dental service are not covered under the Employer Benefit Plan and the medical necessity of this procedure has not been established.

Pertinent Provisions

Article III A. (3)(e) of the 1993 Employer Benefit Plan states:

ARTICLE III BENEFITS

A. Health Benefits

(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

Fracture 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) (a) 19. of the 1993 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:

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19. Dental services.

Q&A 81-15 states:

Subject: Dental and Oral Surgical Services

References: Amended 1950 & 1974 Benefit Plans & Trusts,  
Article III, Section A (3) (e)

Other: 1981 Contract Q&A #81-16

Question:

Are the following dental and oral surgical procedures covered under the Plan:

- a. extraction of teeth?
- b. gingevectomy, alveolectomy, operculectomy?
- c. gingivoplasty, alveoplasty, vestibuloplasty?
- d. treatment for abscessed teeth?
- e. resection of prognathic mandible?
- f. mandibular bone staple?
- g. orthodontics?

Answer:

The dental and oral surgical procedures listed above, when performed in a hospital, are covered only when they are part of a treatment for an illness or injury which is otherwise a covered benefit. Examples of this would be: (1) the extraction of teeth during emergency treatment of extensive facial damage resulting from an auto accident; (2) the extraction of teeth during treatment of cancers of the head and mouth; and (3) the insertion of a mandibular bone staple to repair a fractured jaw.

Except as provided in the above paragraph, none of these seven procedures is covered under the Plan.

#### Discussion

Article III. A. (11) (a) 19. of the Employer Benefit Plan, as well as Q&A 81-15, specifically exclude coverage for dental services except in very limited circumstances. Orthodontics is a branch of dentistry which uses mechanical devices (e.g., braces) to prevent and correct irregularly positioned teeth and malocclusion. Orthodontic treatment is therefore a dental service

and is not a covered benefit under the Employer Benefit Plan, except in very limited circumstances. Since this case does not involve one of those limited circumstances, the orthodontic treatment proposed by the Employee's daughter's dental surgeon is not covered under the Employer Benefit Plan.

Article III. A. (3)(e) of the Employer Benefit Plan provides benefits for limited oral surgical procedures and dental services required as the direct result of an accident. According to the Employee's spouse, there are no dental records for her daughter prior to her accident; therefore, the dental records submitted in this case pertain to the period following her accident. A Funds' medical consultant reviewed the documentation in this case and concluded that there is no medical indication in the records to support the possibility that the Employee's daughter's malocclusion arose from arrested normal development of the facial bones as a result of her accident six years earlier. Accordingly, the Trustees find that the Employer is not required to provide health benefits for the Employee's daughter's oral surgery.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide health benefits coverage for the Employee's daughter's orthodontic treatment or oral surgery.