

---

OPINION OF TRUSTEES

---

In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 11-0007 – March 27, 2013

Trustees: Michael H. Holland, Daniel L. Fassio, and Marty D. Hudson

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

Background Facts

The Complainant sought medical treatment at the local emergency room on March 29, 2012, complaining of severe back pain radiating to his right leg. The Complainant received an injection of a narcotic to moderate the pain and facilitate a physical examination and x-rays. X-rays showed a narrowing of lumbar discs and convexity of the spine, likely due to muscle spasms. Emergency room notes indicated that the initial onset of pain was two days earlier, following garden work by the Complainant. Respondent denied the emergency room charges, stating that the diagnosis code indicated a non-emergency condition, and cited a PPO agreement limiting emergency room treatment to life-threatening emergencies.

Dispute

Is Respondent required to provide benefits for Complainant's emergency room visit on March 29, 2012?

Positions of the Parties

Position of the Complainant: The Complainant experienced acute back pain and utilized the emergency room within 24 hours of the onset of the acute pain in his back. The charges are a covered benefit as provided for in the Employer Benefit Plan.

Position of the Respondent: The Complainant injured himself while gardening on March 26, 2012. The Complainant sought treatment in the emergency room three days after the date that he injured himself and at a time of day that he could have sought treatment from his primary care physician.

### Pertinent Provisions

Article III.A(2)(a) of the Employer Benefit Plan states:

(2) Outpatient Hospital Benefits

(a) Emergency Medical and Accident Cases

Benefits are provided for a Beneficiary who receives emergency medical treatment or medical treatment of an injury as the result of an accident, provided such emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of the accident.

### Discussion

Article III.A(2)(a) of the Employer Benefit Plan provides benefits for emergency medical treatment if the emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms. The Funds' Medical Director reviewed the file, including the emergency room records, and determined that the acute medical symptoms reported by the Complainant had an onset of less than 48 hours prior to Complainant's receipt of emergency room treatment. Given the Complainant's history of prior lower back problems, the development of pain radiating down his leg would have been a symptom that could indicate a possible ruptured disc, requiring immediate medical attention. Therefore, because the acute medical symptoms began less than 48 hours prior to the time Complainant sought treatment at the emergency room, the charges associated with the emergency room visit are a covered benefit under the terms of the Employer Benefit Plan.

Coverage under the Employer Benefit Plan is not limited to treatment for life-threatening emergencies, as suggested by the Respondent, and the Funds' Medical Director notes that Respondent's consideration of non-emergent diagnosis discharge codes as the basis for determining the medical necessity or appropriateness of coverage of emergency medical treatment under the Employer Benefit Plan is not consistent with the terms, provisions, and requirements of the Employer Benefit Plan. The Funds' Medical Director also notes that there is no requirement in the Employer Benefit Plan that a beneficiary see a personal care physician for acute medical symptoms prior to seeking emergency room medical treatment.

Opinion of the Trustees

Pursuant to Article III.A(2)(a) of the Employer Benefit Plan, Respondent is required to provide benefits for Complainant's emergency room visit on March 29, 2012.