
OPINION OF TRUSTEES

Complainant: Employee
Respondent: Employer
ROD Case No: 320 - May 31, 1983

Board of Trustees: Pursuant to Article IX of the United Mine Workers of America 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning health coverage for treatment of Meniere's disease and hereby render their opinion on the matter.

Background Facts

The Employee's wife has been under a physician's care since 1976 for progressive loss of hearing associated with vertigo diagnosed as Meniere's disease. Through cytotoxic food tests she has been found to be allergic to some foods and inhalants. She has been receiving desensitization treatment for her allergies in an effort to save her hearing. With treatment, her vertigo attacks have been less frequent but her hearing has continued to deteriorate.

The patient must travel to an out-of-area medical center because no physician in her area provides this treatment for Meniere's disease. She has been advised to return to the physician's office for specific desensitization to her allergies. During one of the trips to the doctor's office, the patient was accompanied by her son.

Dispute

Is the Employer responsible for payment of charges for treatment of Meniere's disease, travel expenses to the doctor's office, and travel expenses for an escort?

Positions of Parties

Employee's Position: The Employer is responsible for payment of charges incurred by the patient for treatment of her Meniere's disease.

Employer's Position: The type of treatment in question is experimental and therefore not covered.

Pertinent Provisions

Article III. A. (3) (m) of the Employer's Benefit Plan provides:

Benefits will be provided for treatment prescribed or administered by a specialist if the treatment is for illness or injury which falls within the specialist's area of medical competence.

Article III. A. (7) (e) of the Employer' s Benefit Plan provides:

Benefits are provided for ambulance transportation to or from a hospital, clinic, medical center, physician's office, or skilled nursing care facility, when considered medically necessary by a physician.

With prior approval from that Plan Administrator benefits will also be provided for other transportation subject to the following conditions:

1. If the needed medical care is not available near the Beneficiary's home and the Beneficiary must be taken to an out-of-area medical center,
2. If the Beneficiary requires frequent transportation between the Beneficiary's home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment which would otherwise require hospitaliz- ation, benefits will be provided for such transportation only when the Beneficiary cannot receive the needed care without such transportation.
3. If the Beneficiary requires an escort during transportation, the attending physician must submit satisfactory evidence as to why the Beneficiary needs an escort.

Article III. A. (11)(a) 24. of the Employer's Benefit Plan which provides:

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

24. Charges for treatment with new technological medical devices and therapy which are experimental in nature,

Discussion

The Employee's spouse has been found to be allergic to some foods and inhalants. These allergies may be responsible for her symptom complex which has been diagnosed as Meniere's disease.

Allergy desensitization is an established and well recognized therapeutic modality for the treatment of patients with symptomatic allergies. Recognizing the uniqueness of this case, a Funds medical consultant, after careful consideration of the facts, has advised the Trustees that the treatment of the Employee's spouse's Meniere's disease by allergic management is acceptable in this instance. In addition, this treatment was prescribed by a specialist for an illness which

Opinion of the Trustees

ROD Case No. 320

Page 3

falls within his area of medical competence. Because of this, and because allergy desensitization is an acceptable therapeutic modality for the treatment of allergies, the Employer is responsible for providing benefits for the Employee's spouses's treatment.

Under Article III. A. (7) (e) of the Employer's Benefit Plan and the Funds' Travel Policy, attached hereto, benefits are provided for transportation if the needed medical care is not available near the Beneficiary's home and the Beneficiary must be taken to an out-of-area medical center. Because the treatment of Meniere's disease by allergic management is not available near the Beneficiary's home, the Employer is responsible for payment of transportation charges for the patient to receive treatment.

In addition, the Funds' Travel Policy provides benefits for transportation expenses incurred by an escort if the an escort is required during transportation. Because no evidence has been submitted to justify the need for an escort during transportation, the Employer is not responsible for payment of charges for travel expenses incurred by an escort,

Opinion of the Trustees

Based on the information in file, the Trustees, Trustee O'Connell dissenting, are of the opinion that the Employer is responsible for payment of charges for treatment of the Employer's spouse's Meniere's disease and for transportation expenses incurred to receive the treatment. However, the Trustees all are of the opinion that the Employer is not responsible for payment of charges for the travel expenses of an escort.