

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 81-563 - March 25, 1985

Board of Trustees: Harrison Combs, Chairman; Joseph P. Brennan, Trustee; William Miller, Trustee; Paul R. Dean, Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 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 the provision of health benefits coverage for surgical assistant services provided to the Employee's dependent under the terms of the Employer Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Employee's daughter underwent surgery on June 15, 1984. According to information provided in support of the Complainant's dispute, a registered nurse was in attendance as the surgeon's orthopedic nurse assistant during the surgical procedure. The Employer has paid the charges of this surgeon but has denied the charges for the orthopedic nurse assistant which were billed as services of an assistant surgeon.

Dispute

Is the Employer responsible for the payment for services of the orthopedic nurse assistant?

Positions of the Parties

Position of the Complainant: Based on the information presented in support of his dispute, the Employee believes that the services of the orthopedic nurse assistant should be paid for by his Employer.

Position of the Employer: The Employer contends that the services of the orthopedic nurse assistant cannot be considered a covered benefit because there is no provision in the plan for coverage of this service.

Pertinent Provisions

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

(3) Physicians' Services and Other Primary Care

(b) Assistant Surgeons

If the Beneficiary is an inpatient in a hospital, benefits will also be provided for the services of a physician who actively assists the operating physician in the performance of such surgical services when the condition of the Beneficiary and type of surgical service require such assistance.

Article III A. (3) (o) 4. of the Employer Benefit Plan states:

(o) Primary Medical Care - Miscellaneous

4. Benefits are provided for "physician extender" care or medical treatment administered by nurse practitioners, physician's assistants or other certified or licensed health personnel when such service is rendered under the supervision of a physician.

Discussion

Article III A. (3) (b) of the Employer Benefit Plan establishes that the services of a physician who actively assists an operating physician in the performance of a surgical service is a covered benefit when the condition of the beneficiary and the type of surgical service require such assistance. It is significant that the operative report submitted in support of the Complainant's dispute does not reflect that an assistant was used, nor that the services charged were for those of a registered nurse who functioned as an orthopedic nurse assistant.

Article III A. (3) (o) 4 of the Employer Benefit Plan establishes that benefits are provided for "physician extender" care or medical treatment administered by nurse practitioners, physicians assistants or other certified or licensed health personnel when such service is rendered under the supervision of a physician. However, no information was provided to establish that the orthopedic nurse assistant administered care or medical treatment under the supervision of the operating surgeon. In addition the nurse assistant does not meet the criteria for health care extenders established in Q&A 81-96.

Because the services in question were not those of a physician nor of a qualified physician extender who satisfies the requirements of Q&A 81-96, the Employer correctly denied the assistant surgeon charges relative to the Complainant's daughter's surgery on June 15, 1984.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for the payment of the surgical assistant charges.