
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-425 - May 24, 1988

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., 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 the rental of a croup tent under the terms of the Employer Benefit Plan.

Background Facts

The Employee's two-year-old son has asthmatic bronchitis. After several weeks of wheezing and respiratory congestion that failed to improve at home with oral medication, he was admitted to the hospital. While hospitalized, he was treated with oral and aerosol medication and placed in a croup tent. When he was discharged four days later, on March 24, 1987, the child's pediatrician advised his parents to have the child sleep in a croup tent at home through the spring in order to prevent wheezing and future hospital admissions.

The Employer denied health benefits coverage for the rental of the croup tent for home use because the prescribing physician had not indicated that the tent was medically necessary and had not demonstrated that the tent would cure or retard the child's asthmatic bronchitis. The Employer claims that the physician's statement that the tent would be needed through spring to "hopefully" prevent wheezing implies that the child's condition would not necessarily improve by using the tent and, therefore, it was primarily a convenience item. The Employer also states that since the tent acts as a concentrated humidifier, it would be useful to a person in the absence of an illness or injury.

Dispute

Is the Employer responsible for providing health benefits coverage for the rental of a croup tent for the Employee's child?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing health benefits coverage for the rental of a croup tent for the Employee's child.

Position of the Employer: The Employer is not responsible for providing health benefits coverage for the rental of the croup tent because the prescribing physician has not indicated that it is medically necessary or that it would cure or retard the child's asthmatic bronchitis. The Employer also claims that the croup tent would be useful to a person in the absence of an illness or injury.

Pertinent Provisions

The Introduction to Article III. of the Employer Benefit Plan states:

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan.

Article III. A. (6)(d) of the Employer Benefit Plan states:

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A 81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

Reference: Amended 1950 & 1974 Benefit Plans & Trusts, Article III, Sections A. (6)(d) and (e), and A. (7)(a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

- A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be

medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:

1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheel chairs.
2. Medical supplies necessary to maintain homebound or bedridden Beneficiaries. Examples of covered supplies are enema supplies, disposable sheets and pads (also called "Chux" or "blue pads"), supplies for home management of open or draining wounds, heating pads (for therapeutic use only) and insulin needles and syringes.
3. Oxygen, as specified in Article III, Section A (6)(e).

Discussion

Under Article III. A. (6)(d) of the Employer Benefit Plan, benefits are provided for medical equipment suitable for home use when determined by a physician to be medically necessary.

Q&A 81-38 states that covered durable medical equipment is equipment that a) can withstand use, b) is primarily and customarily used to service a medical purpose, c) generally is not useful to a person in the absence of an illness or injury and d) is appropriate for use in the home. The croup tent rented for the Employee's child meets all four criteria. First, it can withstand repeated use. Second, a croup tent is primarily and customarily used for a medical purpose (i.e., by increasing moisture in the air it reduces the viscosity of bronchial secretions and facilitates breathing). Third, the croup tent would not be useful for persons who do not have a respiratory illness, because it provides a higher level of humidity than that required by healthy persons and because it requires the person to be confined within the tent. Fourth, the croup tent can be safely operated without the assistance of professional personnel and is therefore suitable for home use.

Although an item of Durable Medical Equipment may meet the criteria outlined in Q&A 81-38, it is covered under Article III. A. (6)(d) of the Employer Benefit Plan only if it is medically reasonable and necessary for the treatment of an illness or injury. The child's pediatrician has recommended that the Employee's son sleep in a croup tent at home for a month or more in order to prevent wheezing. A Funds' medical consultant has reviewed this file and is of the opinion that, in this case, there is insufficient evidence that the croup tent was medically necessary for the treatment of the Employee's son's particular condition, asthmatic bronchitis. Inasmuch as the available evidence indicates that the croup tent was not medically necessary in this case, it is not a covered benefit under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not responsible for providing benefits for the rental of a croup tent for the Employee's child.