

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-502 - December 10, 1987

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 benefits for prescription drugs under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse lost sixty pounds in one year and was found to be nutritionally deficient. Her physician prescribed the nutritional formula, Ensure, to be taken as a diet supplement. Ensure does not require a prescription and is obtained over the counter. The Employer denied coverage for the nutritional supplement.

Dispute

Is the Employer responsible for the provision of prescription drug benefits for the Employee's spouse's diet supplement?

Positions of the Parties

Position of the Employee: The Employer is responsible for the provision of prescription drug benefits for the Employee's spouse's diet supplement because it was prescribed by a physician.

Position of the Employer: The Employer is not responsible for providing prescription drug benefits for the Employee's spouse's diet supplement. Although it was prescribed by a physician, it does not require a prescription in order to be purchased.

Pertinent Provisions

Article III. A. (4)(a) of the Employer Benefit Plan states in part:

(4) Prescription Drugs

(a) Benefits Provided

Benefits are provided for insulin and prescription drugs (only those drugs which by Federal or State law require a prescription) dispensed by a licensed pharmacist and prescribed by a (i) physician for treatment or control of an illness or a nonoccupational accident...

Discussion

Under Article III. A. (4)(a) of the Employer Benefit Plan benefits are provided only for those drugs which, by federal or state law, require a prescription. Medication that can be obtained over the counter without a prescription is excluded from coverage. The Trustees have previously concluded in Resolutions of Dispute 81-561 and 84-098 (copies enclosed herein) that benefits are not provided under the Employer Benefit Plan for nutritional supplements which do not require a prescription. In this case, although the Ensure needed by the Employee's spouse was prescribed by a physician, it did not require a prescription for purchase. Therefore, benefits are not provided for this supplement under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not responsible for the provision of benefits for the diet supplement Ensure.