

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-050 - February 9, 1989

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 health benefits coverage for a home whirlpool under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse is under a physician's care for arterial occlusive disease of both legs. She was recently hospitalized for arterial thrombosis, and, following discharge, her physician prescribed whirlpool treatments twice a day for an indefinite length of time. According to the physician, a home whirlpool is more economical than being hospitalized or receiving physical therapy on an outpatient basis. The Employer denied health benefits coverage for the whirlpool prescribed for the Pensioner's spouse.

Dispute

Is the Employer responsible for the payment of benefits for a home whirlpool for the Pensioner's spouse?

Positions of the Parties

Position of the Pensioner: The Employer is responsible for payment of benefits for the home whirlpool because it is medically necessary and it was prescribed by a physician.

Position of the Employer: The Employer is not responsible for payment of benefits for the home whirlpool for the Pensioner's spouse because it is useful to a person in the absence of an illness

or injury, because it is a convenience item, and because it does not require professional judgment, recommendations or instructions to purchase or use.

Pertinent Provisions

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

(6) Home Health Services and Equipment

(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

References: 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.

- C. Items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits. Examples of such items are: ordinary support (panty) hose, garter belts, disposable paper cups or towels, cotton balls, cotton swabs, bandaids, exercise equipment, and foot pads for bunions or calluses.

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. The type of medical equipment which is covered is further defined by Q&A 81-38, which states that covered medical equipment is that which (a) can withstand use; (b) is primarily and customarily used to serve 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. Q&A 81-38 further stipulates that items of a convenience nature and those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits.

For medical equipment to be covered by the Plan, it must not only be deemed medically necessary by a physician, but must also meet the definition of medical equipment which may be covered. The physician states that the Pensioner's spouse will require whirlpool treatments for an indefinite length of time. However, the primary purpose of the type of whirlpool prescribed in this case is not medical in nature. While it may serve a therapeutic benefit for the Pensioner's spouse, it is generally used for soothing and comfort purposes in the absence of an illness or injury. Therefore, the portable type whirlpool prescribed here for home use does not meet the definition of medical equipment which may be covered under the Plan. Accordingly, the Employer is not responsible for payment of benefits for the prescribed home whirlpool.

Opinion of the Trustees

The home whirlpool prescribed for the Pensioner's spouse is not a covered benefit under the Employer Benefit Plan.