
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-115 - September 26, 1989

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 bathroom safety equipment under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse has had several large and small cerebral vascular accidents ("strokes") with resulting severe neurologic impairment. She also has mitral valve prolapse, arrhythmias, multi-infarct dementia and expressive aphasia. Her physician prescribed a bathtub rail, a commode rail and an elevated commode seat for home use. The physician states that because she is weak, unstable and disoriented, the Pensioner's spouse requires the equipment for safety and independence. The Employer denied benefits for the purchase of the equipment.

Dispute

Is the Employer required to provide benefits for the safety bathroom equipment prescribed for the Pensioner's spouse?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the safety bathroom equipment because it allows her to function normally in her home.

Position of the Employer: The Employer is not required to provide benefits for the safety bathroom equipment because it is not medically necessary for the treatment of the Pensioner's spouse's illness because the equipment is not expected to make a meaningful contribution to the treatment of the patient's illness or to replace a body part or function.

Pertinent Provisions

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
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. [Emphasis added.]

Discussion

Q&A 81-38 provides the definition of "durable medical equipment" ("DME"). The Employer concedes that the bathroom safety equipment at issue satisfies this definition.

Even if an item of DME meets the criteria outlined in Q&A 81-38, that item must also satisfy Article III. A. (6)(d) of the Employer Benefit Plan, which requires that home medical equipment be medically necessary. The Employer contends that safety bathroom equipment is not medically necessary in this case because it is not expected to have a therapeutic benefit on the Pensioner's spouse's muscle weakness. However, Article III. A. (6)(d) does not state that DME must address the underlying cause of disability. Instead, Article III. A. (6)(d) only states that DME must be "medically necessary." The prescribing physician stated on the Medical Justification form that the safety bathroom equipment is necessary in this case because of the patient's muscle weakness in her upper and lower limbs. A Funds' medical consultant has reviewed the clinical information presented in this case and advises that, given the patient's severe neurological impairment, the prescribed durable medical equipment is necessary, along with the assistance of another person, to enable the patient to meet her most basic functional needs. The medical consultant further states that without this equipment, the Pensioner's spouse's risk of injury is so great that she would require either the assistance of two persons or nursing home care. The consultant concurs with the prescribing physician's finding that in this case the safety bathroom equipment is medically necessary. Accordingly, the safety bathroom equipment prescribed for the Pensioner's spouse is covered under Article III. A. (6)(d) of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is required to provide benefits for the safety bathroom equipment prescribed for the Pensioner's spouse.