
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-604 - October 30, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee;
William Miller, Trustee; Elliot A. Segal, 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 sclerotherapy treatment under the terms of the Employer Benefit Plan.

Background Facts

On March 8, 1991, the Employee's spouse was treated with sclerotherapy injections for telangiectasias (varicose veins). Sclerotherapy is classified as surgery by the American Medical Association because it is an invasive technique involving puncture of the skin. The Employer states that the injections received by the patient are considered to be cosmetic surgery and are not covered under the Employer Benefit Plan. Despite the Employer's statement that the services are not covered, the Employer's insurance carrier has paid the provider a significant part of the charges.

Dispute

Is the Employer required to provide benefits for the Employee's spouse's sclerotherapy injections received on March 8, 1991?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's spouse's sclerotherapy injections on March 8, 1991 because the injections were necessary for treatment of pain, soreness, and heaviness of her legs and the treatment has proven to be successful.

Position of the Employer: The Employer is not required to provide benefits for the Employee's spouse's sclerotherapy injections on March 8, 1991 because sclerotherapy for treatment of telangiectasias is considered to be cosmetic surgery and is, therefore, not covered under the Employer Benefit Plan.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states in pertinent part:

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. (3) (a) and (p) 9. of the Employer Benefit Plan state:

(3) Physicians' Services and Other Primary Care

(a) Surgical Benefits

Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedures (including the usual and necessary post-operative care) for the treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

(p) Services Not Covered

9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that 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. Article III. A. (3) (a) states that benefits are provided for surgical services essential to a Beneficiary's care for the treatment of illnesses, injuries, fractures, or dislocations. Article III. A. (3) 9. states that cosmetic surgery is not covered unless it is performed to correct surgical scars or to correct results of an accidental injury or birth defects.

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A Funds' medical consultant has reviewed the information submitted in this case, including a brief medical note and three letters submitted by the physician who performed the services. The consultant has advised that there is no medical documentation of problems the patient was having from her telangiectasias. Further, the consultant states that, without such medical documentation, he is unable to establish the medical necessity of the sclerotherapy and, therefore, would consider it cosmetic in nature.

Because the services in question have been determined to be cosmetic surgery that is not covered under the Employer Benefit Plan, the Trustees conclude that the Employer is not required to provide benefits for the Employee's spouse's sclerotherapy injections.

Opinion of the Trustees

The Employer is not required to provide benefits for the sclerotherapy injections provided to the Employee's spouse on March 8, 1991.