

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-267 - December 6, 1991

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 emergency room charges under the terms of the Employer Benefit Plan.

Background Facts

The Employee sought treatment at a hospital emergency room on March 24, 1988 for severe itching all over his body that had started two hours previously. He reported that he had been burning copper with fiberglass in it. He was diagnosed with contact dermatitis and given an injection of a steroid, as well as oral steroid and antihistamine medications.

The Employee sought treatment at a hospital emergency room again on April 12, 1988 for itching over most of his body and face that had started less than two hours earlier. Again, the diagnosis was contact dermatitis, and he was given an injection of a steroid, as well as an oral steroid and two oral antihistamine medications. He was advised not to work for three days and the emergency room record indicates that he had an appointment with an allergist in three days.

The Employee's 11-year-old daughter was taken to a hospital emergency room on June 29, 1988 for earache in both ears since the day before. The emergency room record indicates that she had a temperature of 101 degrees. The diagnosis was bilateral otitis externa, and she was treated with antibiotics. She was advised to see her family physician if her condition did not improve.

The Employee's spouse sought treatment at a hospital emergency room on October 10, 1987 for a headache that had persisted for two weeks. She denied symptoms of nausea or vomiting. The diagnosis was possible migraine headache and she was given pain relief medication and an antihistamine.

The Employee's spouse sought treatment at a hospital emergency room on January 15, 1988 with a complaint of migraine headache that had persisted for three days. She reported no vomiting.

She was treated with two pain relief medications and an antihistamine and was advised to see her physician in three days if the symptoms persisted.

The Employee's spouse again sought treatment at a hospital emergency room on September 16, 1988 for a headache that had begun six hours earlier. She reported that she had fainted at home and had symptoms of nausea, vomiting, dizziness, and photophobia (abnormal sensitivity to light). The diagnosis was cephalgia (headache) and she was treated with a pain relief medication and an antihistamine.

The Employee's spouse again sought treatment at a hospital emergency room on October 10, 1988 with a complaint of migraine headache that had persisted for three days. She reported having vomited earlier in the day and that she was less dizzy at the time of the emergency room visit. The diagnosis was migraine headache, and she was treated with a pain relief medication and an antihistamine.

The Employer has paid all charges associated with the emergency room visits except the emergency room charges for all seven visits.

Dispute

Is the Employer required to provide benefits for the emergency room charges resulting from the two visits by the Employee, the one visit by the Employee's daughter, and the four visits by the Employee's spouse?

Positions of the Parties

Position of the Employee: The Employer is required to pay the emergency room charges incurred for all seven visits because emergency medical evaluation and treatment was needed in each case.

Position of the Employer: The Employer is not required to pay the emergency room charges for the Employee's two visits because the symptoms in neither case were severe enough to warrant emergency medical treatment. The Employer is not required to pay the emergency room charge for the Employee's daughter's visit because there is no indication that the treatment rendered followed the onset of acute symptoms, and It is not required to pay the four emergency room charges incurred by the Employee's spouse because the visits were not medically necessary and appropriate, and based on the Employer's review, were excessive.

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.

Article III. A. (2) [a] of the Employer Benefit Plan states:

(2) Outpatient Hospital Benefits

(a) Emergency Medical and Accident Cases

Benefits are provided for a Beneficiary who receives emergency medical treatment or medical treatment of an injury as the result of an accident, provided such emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of the accident.

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. Under Article III. A. (2) (a) of the Employer Benefit Plan, benefits are provided for emergency medical treatment when it is rendered within 48 hours following the onset of acute medical symptoms.

A Funds' medical consultant has reviewed this file, including hospital records for each of the seven emergency room visits in question.

Regarding the Employee's emergency room visits on March 24 and April 12, 1988, the consultant has noted that treatment was sought within two hours of the onset of symptoms in both instances. The consultant states that the patient had acute onset of contact dermatitis on each visit. The consultant has advised that the extent and severity of the patient's condition, as described by the doctor and the patient, would reasonably indicate the need for emergency medical evaluation and treatment. He also advised that the treatment given on both occasions, an intramuscular injection, is further indication of the severity of the patient's condition. Inasmuch as emergency medical treatment was rendered within 48 hours of the onset of acute medical symptoms, the Trustees conclude that the Employer is required to provide benefits for the emergency room charges incurred on March 24, 1988 and April 12, 1988.

Regarding the Employee's daughter's emergency room visit on June 29, 1988, the record indicates that she sought treatment for earache in both ears which began the day before the visit. The consultant has advised that she was treated for acute medical symptoms which warranted emergency evaluation and treatment, as evidenced by the diagnosis of bilateral otitis externa. Inasmuch as emergency medical treatment was rendered within 48 hours of the onset of acute medical symptoms, the Trustees conclude that the Employer is required to provide benefits for the emergency room charge incurred on June 29, 1988.

The Employer denied the emergency room charges for the Employee's spouse's visits on the basis that emergency room treatment was neither medically necessary nor appropriate and the number of visits was excessive. In ROD 81-553 (copy enclosed herein), the Trustees concluded that an Employer, by virtue of having obtained an independent opinion from a consulting

physician and a peer review organization, had applied reasonable procedures to establish that the services in question were neither medically necessary nor appropriate. The Employer in this case has not demonstrated that it applied such procedures to establish that the services in question were not medically necessary and appropriate. Therefore, the Employer cannot deny benefits on that basis.

Regarding the Employee's spouse's emergency room visits on October 10, 1987, January 15, 1988, and October 10, 1988, the Funds' medical consultant has noted that the emergency room records show that in each case the patient sought treatment for a headache, the onset of which occurred more than 48 hours prior to the emergency room visit. The consultant has advised that he finds no indication in the records of these visits that the patient's symptoms had worsened to such an extent that emergency medical treatment was warranted. Because emergency medical treatment was not rendered within 48 hours following the onset of acute medical symptoms, the Trustees conclude that the Employer is not required to provide benefits for the emergency room charges incurred on October 10, 1987, January 15, 1988, and October 10, 1988.

Regarding the Employee's spouse's emergency room visit on September 16, 1988, the consultant has noted that the emergency room record indicates that the patient was treated for a sudden onset of severe headache pain and syncope (fainting). The consultant has advised that emergency medical treatment was warranted, given the severity of the acute medical symptoms. Inasmuch as emergency medical treatment was rendered within 48 hours of the onset of acute medical symptoms, the Trustees conclude that the Employer is required to provide benefits for the emergency room charge incurred on September 16, 1988.

Opinion of the Trustees

The Employer is required to provide benefits for the emergency room charges resulting from the Employee's emergency room visits on March 24 and April 12, 1988; the Employee's daughter's emergency room visit on June 29, 1988; and the Employee's spouse's emergency room visit on September 16, 1988. The Employer is not required to provide benefits for the emergency room charges resulting from the Employee's spouse's emergency room visits on October 10, 1987, January 15, 1988 and October 10, 1988.