

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-294 - November 14, 1990

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 care for an Employee's daughter under the terms of the Employer Benefit Plan.

Background Facts

On December 25, 1989, the Employee's spouse took her 7-year-old daughter, who is asthmatic, to the emergency room for evaluation and treatment because she was having difficulty breathing. According to the information submitted, the Employee's daughter had been experiencing cold symptoms for a few days prior to the emergency room visit. The Employee's spouse states that she sought emergency medical attention for her daughter because the symptoms had worsened and, since it was Christmas Day, no other physician was available. The diagnosis provided by the emergency room physician who evaluated the Employee's daughter was early bronchopneumonia and asthma. He prescribed treatment with an oral bronchodilator (SloBid), an antibiotic (Pediazole), and a cough suppressant (Tussconex).

The Employer provided benefits for the physician, laboratory and pharmacy charges, but denied benefits for the emergency room charge.

Dispute

Is the Employer responsible for payment of the emergency room charge resulting from the Employee's daughter's evaluation and treatment on December 25, 1989?

Positions of the Parties

Position of the Employee: The Employer is responsible for payment of the emergency room charge because the Employee's daughter, who is asthmatic, was having difficulty breathing and the emergency room was the only facility available at that time for treatment.

Position of the Employer: The Employer is not responsible for payment of the emergency room charge because treatments was not rendered within 48 hours of the onset of acute medical symptoms.

Pertinent Provisions

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

Article III. A. (2) (a) of the Employer Benefit Plan provides that emergency medical treatment is a covered benefit when it is rendered within 48 hours following the onset of acute medical symptoms.

The emergency room record indicates that the Employee's daughter had cold symptoms for a few days prior to the emergency room visit. The record also indicates that the cough had worsened on the day of the visit. The Employee's spouse has stated that because it was Christmas Day, no doctor was available to see her daughter except at the emergency room.

A Funds' medical consultant has reviewed the information presented in this case and is of the opinion that, given the patient's history of pneumonia and asthma and the emergency room physician's diagnosis of early bronchopneumonia and asthma, the patient's worsening respiratory symptoms were acute medical symptoms that warranted emergency medical treatment. Therefore, the Trustees find that the Employer is required to pay the emergency room charge resulting from the Employee's daughter's evaluation and treatment on December 25, 1989.

Opinion of the Trustees

The Employer is responsible for payment of the emergency room charge resulting from the Employee's daughter's evaluation and treatment on December 25, 1989.