

OPINION OF TRUSTEES

In Re

Complainants: Employee
Respondent: Employer
ROD Case No: 88-628 - December 4, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; Elliott 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 emergency room treatment under the terms of the Employer Benefit Plan.

Background Facts

On the evening of July 25, 1991, the Employee's 20 year old daughter was taken to the emergency room of a local hospital for evaluation and treatment of severe tooth pain which had been present for the last two hours. The emergency room physician diagnosed the problem as an abscessed tooth and administered Demerol for pain and Phenergan for nausea, both via intramuscular injection. The Employee's daughter was given Percocet tablets to take home for pain management and was instructed to see her personal dentist the following morning.

The Employer denied the charges for the emergency room and related charges, stating that they should be considered under the dental plan and not the medical plan. The Employer states that since the Employee's daughter was 20 years old at the time of the visit, she would be ineligible to receive benefits under the dental plan, which limits a dependent's age to 19. Therefore, the Employer considered the charges ineligible under both plans. The Employee requests that the Trustees determine whether the emergency room charges on July 25, 1991 would be eligible as medical expenses payable under the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits for the Employee's daughter's evaluation and treatment in the emergency room on July 25, 1991?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the emergency room charge incurred on July 25, 1991, because acute symptoms appeared within 48 hours of the emergency room visit.

Position of the Employer: The Employer is not required to provide benefits for the emergency room charge resulting from the Employee's daughter's evaluation and treatment on July 25, 1991, because the charges are dental in nature, and the daughter is over the age limit under the dental plan.

Pertinent Provisions

Article II D. (2) of the Employer Benefit Plan states in pertinent part:

D. Eligible Dependents

Health benefits under Article III shall be provided to the following members of the family of any Employee, Pensioner, or disabled Employee receiving health benefits pursuant to paragraphs A, B, or C of this Article II:

- (2) Unmarried dependent children of an eligible Employee or Pensioner who have not attained age 22;

For purposes of this paragraph D, a person shall be considered dependent upon an eligible Employee, Pensioner or spouse if such Employee, Pensioner or spouse provides on a regular basis over one-half of the support to such person.

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 II. D. (2) of the Employer Benefit Plan provides benefits for unmarried dependent children who have not attained age 22. Under Article III. A. (2)(a) of the 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 the file and has determined that the treatment would not be considered exclusively dental in nature as the services were rendered by a medical doctor to treat the emergent problem of acute, severe pain. The pain was severe enough to warrant treatment with intramuscular narcotic injection, as well as strong narcotic pain pills which the patient took home with her. The consultant further states that he considered the treatment to be medically appropriate, particularly since it was provided in the evening when alternate medical or dental care would not be available.

In ROD 88-409 (copy enclosed herein), the Trustees concluded that the provision of benefits under the Employer Benefit Plan can be appropriate for treatment in an emergency room for pain and infection arising from an abscessed tooth. In this case, also, the Trustees find that the care rendered was medical in nature and that the services meet the plan requirements for emergency medical treatment.

In this case, the Employer has also raised the issue that, due to the diagnosis, the charges should be considered under the dental plan and not the medical plan. Inasmuch as dental benefits are provided under Article XX A of the National Bituminous Coal Wage Agreement of 1988 and the Trustees have authority to resolve disputes involving benefits established by Article XX only, the Trustees may not address any disputes concerning dental plan benefits, (See RODs 84-564 and 84-447).

Opinion of the Trustees

The Employer is required to provide benefits for the Employee's daughter's evaluation and treatment in the emergency room on July 25, 1991.