
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 98-023 - April 16, 2003

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson and
Elliot A. Segal.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits under the terms of the Employer Benefit Plan.

Background Facts

The Complainant's son, whose date of birth is September 31, 1983, was admitted to a residential long-term treatment facility affiliated with a children's hospital from February 2, 1999, to April 23, 1999. The facility is approved by the Joint Commission on Accreditation of Hospitals. The admitting diagnoses were attention deficit disorder, neurotic depression and oppositional disorder.

According to the Respondent, the services provided by the facility are not covered based on plan provisions. However, upon review of the claim, the Respondent noted that on February 3, 1999, a representative from the treatment facility contacted the Respondent's insurance carrier concerning pre-authorization for the inpatient treatment program. But due to staffing changes since February 1999, the insurance carrier was unable to verify whether the licensure of the facility or type of treatment that was to be provided was discussed on February 3, 1999. Therefore, as an act of good faith, the Respondent stated that it provided coverage for all services except for the following: 1) private tutors; 2) activity therapy; and 3) room and board when the patient was on leave from the facility (the Complainant's son went home for visits on weekends). Based on information provided, activity therapy was facilitated by Nationally Certified Therapeutic Specialists who are licensed by the state and who are part of a treatment team that includes psychiatrists, social workers, psychologists and other professionals.

Dispute

Is the Respondent required to provide coverage for the Complainant's son's remaining medical expenses incurred from February 2, 1999, to April 23, 1999?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide coverage for the Complainant's son's remaining medical expenses because all services provided were necessary parts of his son's treatment.

Position of the Respondent: The Respondent is not required to provide coverage for the remainder of the Complainant's son's medical expenses because coverage for private tutors, activity therapy, and charges for room and board when the patient is not present are not covered under the Employer Benefit Plan.

Pertinent Provision

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

Article III - Benefits

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. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of questionable current usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III A. (1) (a) states in pertinent part:

A. Health Benefits

(1) Inpatient Hospital Benefits

(a) Semi-private room

When a Beneficiary is admitted by a licensed physician (hereinafter “physician”) for treatment as an inpatient to an Accredited Hospital (hereinafter “hospital”), benefits will be provided for semi-private room accommodations (including special diets and general nursing care) and all medically necessary services provided by the hospital as set out below for the diagnosis and treatment of the Beneficiary’s condition.

* * *

Article III A. (7) (f) states:

A. Health Benefits

(7) Other Benefits

(f) Outpatient Mental Health, Alcoholism and Drug Addiction

Benefits are provided for:

Psychotherapy, psychological testing, counseling, group therapy and alcoholism or drug rehabilitation programs where free care sources are not available and when determined to be medically required by a physician.

Benefits are not provided for:

1. Encounter and self-improvement group therapy.
2. Custodial care related to mental retardation and other mental deficiencies.
3. School related behavioral problems.
4. Services by private teachers.
5. Alcoholism and drug rehabilitation if an advance

determination

has not been made by the rehabilitation team that the Beneficiary

is a good candidate for rehabilitation.
6. Alcoholism and drug rehabilitation programs not approved by Medicare.

Article III A. (11) (a) 27. states:

A. Health Benefits

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

27. Any types of services, supplies or treatments not specifically provided by the Plan.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are 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 Introduction further states that 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.

The Complainant's son was admitted to a residential treatment facility for extended treatment for mental illness. The Respondent provided coverage for all services except for the following: 1) private tutor; 2) activity therapy; and 3) room and board when the beneficiary was not in attendance.

Concerning coverage for a private tutor, Article III A. (11) (a) 27 states that any service not specifically provided by the terms of the Plan is excluded from coverage. The medical portion of the Plan contains no provision that provides coverage for a private tutor. In fact, services by private teachers is specifically addressed as a non-covered benefit for outpatient mental health benefits under Article III A. (7)(f) 4.

Concerning the second issue listed above, activity therapy, the Employer Benefit Plan provides for inpatient treatment of mental illness but does not exclude any specific services. See ROD 88-788. Medicare and the Funds will cover activity therapy when it is used within a structured treatment program but not when its purpose is purely recreational. In this case the activity therapy was related to the care and treatment of a person's disabling mental health problems.

Because the activity therapy in this case was part of a structured treatment program, the therapy is covered under the Employer Benefit Plan.

Finally, in cases concerning room and board for hospital stays, the Funds follows Medicare policy. Psychiatric, rehabilitation, children's, and other specialty hospitals are paid a per diem rate for the days the patient is in the facility. However, Medicare does not cover days for which the patient is on leave of absence. In this case, the facility is a children's psychiatric hospital; therefore, days for which a patient is on leave would not be covered under Medicare or the Funds.

Opinion of the Trustees

Under the terms of the Employer Benefit Plan, the Respondent is not required to provide coverage for a private tutor or for room and board when the Complainant's son was on leave from the facility. The Respondent is required to provide coverage for activity therapy.