
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-745 - February 6, 1995

Trustees: Thomas F. Connors, Michael H. Holland, Marty D. Hudson and Robert T. Wallace.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage for emergency room charges under the terms of the Employer Benefit Plan.

Background Facts

On October 7, 1992, the Employee's spouse sought medical evaluation and treatment at a local hospital emergency room. The Employer has provided benefits for this visit. On November 18, 1992 the Employee's spouse again sought medical evaluation and treatment at the emergency room of a local medical center complaining of a sore throat, cold, and congestion that had been present for one week. Additionally, the Employee's spouse complained of redness and swelling in the area of her right eye. The patient's vital signs were normal. The emergency room physician diagnosed the condition as an upper respiratory infection. She was given an antibiotic to take by mouth, an antibiotic eye drop for the inflammation in her right eye, and was discharged in satisfactory condition.

The Employer has denied benefits for the laboratory charges and charges related to the use of the emergency room, but has provided benefits for the physician's charges in relation to the visit.

Dispute

Is the Employer required to provide benefits for the laboratory and emergency room charges for the emergency room visit of November 18, 1992? If not, is the Employer required to hold the Employee harmless for these charges?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the laboratory and emergency room charges incurred on November 18, 1992 because the Employee's spouse was

seven months pregnant and any illness or accident was considered a medical emergency. If the services were not medically necessary, the Employer should initiate "hold harmless" procedures.

Position of the Employer: The Employer is not required to provide benefits for the laboratory and emergency room charges resulting from the Employee's spouse's medical evaluation and treatment on November 18, 1992 because the hospital visit did not take place within 48 hours of the onset of symptoms. Also, the use of the "hold harmless" procedures is not appropriate in this instance.

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.

Article III. A. (10)(g) 3. states in pertinent part:

(10) General Provisions

(g) Explanation of Benefits (EOB), Cost Containment and Hold Harmless

3. The Employer and the UMWA agree that excessive charges and escalating health costs are a joint problem requiring a mutual effort for solution. In any case in which a provider attempts to collect excessive charges or charges for services not medically necessary, as defined in the Plan, from a Beneficiary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the provider...

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 records indicated that the Employee's spouse had complaints of sore throat, cold, and congestion; however, her vital signs were normal and her chest was clear. The record shows that she stated those symptoms had been present for one week prior to the visit. A Funds' medical consultant has reviewed the information present in this case and notes that the patient had symptoms for one week with no documentation of new symptoms or the acute worsening of the previous symptoms within 48 hours of the visit. Because the Employee's spouse did not have any new symptoms, or an acute worsening of her previous symptoms within 48 hours of the emergency room visit, the Trustees conclude that the Employer is not required to provide benefits for the emergency room charges incurred as a result of the visit on November 18, 1992. The Employer would, however, be required to provide benefits for the laboratory charges in connection with the visit.

In ROD 88-609 (copy enclosed herein) the Trustees decided that when an Employee made an inappropriate decision, independent of professional medical advice, to seek care in an emergency room, invoking hold harmless would amount to defending the Employee against his own actions since the emergency room cannot turn away an individual seeking care. Therefore, under facts such as these, application of hold harmless is inappropriate.

Opinion of Trustees

The Employer is not required to provide benefits for the emergency room charges resulting from the Employee's spouse's medical evaluation and treatment on November 18, 1992, but is required to provide benefits for the laboratory charges incurred in connection with the visit. The Employer is not required to implement hold harmless procedures.