OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 02-025 - October 11, 2006

Trustees: Micheal W. Buckner, A. Frank Dunham, Michael H. Holland, 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

Based on a diagnosis of weakness and loss of balance, the Respondent provided coverage for physical therapy for the Complainant's spouse from July 14, 2004, through December 14, 2004. The Respondent denied coverage for physical therapy after December 14, 2004, for the following reasons: 1) no diagnosis; 2) lack of progression; 3) sufficient assistance at home; 4) reached maximum restoration; and 5) no duration of therapy or treatment plan with goals was provided.

The Complainant's spouse filed an appeal, which included a physician's diagnosis of chronic paraplegia secondary to a conversion reaction. According to the Respondent, the appeal "was reviewed by a licensed physical therapist who stated that given the length of time that it took to progress the patient to a straight cane, the unassisted walking with a cane was not a reality and that the patient's functional status would remain at rolling walker with a stand by assist for balance." The Respondent also noted that "[g]iven the patient's level of functioning; continuation of outpatient physical therapy after 12/14/04 would be considered maintenance in nature."

The Complainant's spouse states that she has no feeling from the knees down in her legs and is confined to a wheelchair. She states that she was making great progress with her physical therapy and needs to continue the physical therapy so that she can begin to walk with a walker unaided.

The Complainant's spouse also requested coverage for a motorized wheelchair. According to the spouse, she has a bad rotator cuff that makes it difficult for her to maneuver the manual wheel-chair. She also stated that if she had a motorized wheelchair, she could get hand controls installed in her automobile and would be able to be more mobile.

According to the Respondent, the Complainant's spouse failed to meet the medical necessity requirements to obtain a wheelchair under the Respondent's Employer Benefit Plan. Therefore, coverage for the wheelchair was denied.

Dispute

Is the Respondent required to provide coverage for physical therapy beyond December 14, 2004, and a motorized wheelchair for the Complainant's spouse?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide coverage for physical therapy beyond December 14, 2004, because the Complainant's spouse requires additional therapy so that she can walk unaided. Also, the Respondent is required to provide coverage for a motorized wheelchair because the Complainant's spouse has a bad rotator cuff that makes it difficult for her to maneuver a manual wheelchair.

Position of the Respondent: The Respondent is not required to provide coverage for physical therapy beyond December 14, 2004, for the Complainant's spouse for the following reasons:1) no diagnosis was provided; 2) lack of progression in therapy; 3) the Complainant's spouse has sufficient assistance at home; 4) the Complainant's spouse reached maximum restoration; 5) no duration of therapy or treatment plan with goals was provided; and 6) continued physical therapy would be considered maintenance in nature.

The Respondent is not required to provide coverage for a motorized wheelchair because medical necessity for a motorized wheelchair was not established because: 1) the spouse is able to propel a manual wheelchair; 2) the spouse can ambulate up to 15 feet with a rolling walker and manual assistance for balance; and 3) the spouse requires assistance with transfers. The Respondent states that its position is supported by decisions in RODs 84-232, 84-270, 84-340 and 88-250.

Pertinent Provisions

Article III. A. (6)(d) of the 2002 Employer Benefit Plan states:

ARTICLE III BENEFITS

A. Health Benefits

(6) Home Health Services & Equipment

* * *

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A 81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trusts, Article III, Section A (6) (d) and (e), and A (7) (a) and (d)

Question: What medical equipment and supplies are covered under the Plan?

Answer:

A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:

1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheel chairs.

* * *

Article III. A. (7) (b) of the Employer Benefit Plan states:

ARTICLE III BENEFITS

A. Health Benefits

(7) Other Benefits

* * *

(b) Physical Therapy

Benefits are provided for physical therapy in a hospital, skilled nursing facility, treatment center, or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician and administered by a licensed therapist. The physical therapy treatment must be justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration.

* * *

Article III. A. (11) (a) 27. of the Employer Benefit Plan states:

ARTICLE III BENEFITS

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

Under Article III. A. (7) (b) of the Employer Benefit Plan, benefits are provided for physical therapy in a hospital, skilled nursing facility, treatment center or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician, administered by a licensed therapist, and justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration. Article III. A. (11) (a) 27. of the Plan states that, in addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for any types of services, supplies or treatments not specifically provided by the Plan.

The Complainant's spouse has requested additional physical therapy so that she can walk with a walker unaided. Her physician wrote her a prescription stating that she was a chronic paraplegic due to "conversion reaction[1]" and that it would help to have outpatient physical therapy "for strengthening and gait training."

The Funds' Medical Director has reviewed the information submitted in this case. The Medical Director notes that the Complainant's spouse is reported to be suffering from a conversion reaction. According to the Medical Director, this diagnosis accounts for lack of feeling in her legs, varying states of ambulation and her variable progress with physical therapy. It also accounts for her inability to reach a treatment end point goal despite extensive physical therapy treatments. The Medical Director concluded that the Complainant's spouse would not benefit from further physical therapy and has reached maximum restoration.

The Complainant's spouse has also requested coverage for a motorized wheelchair. Under Article III. A. (6) (d) of the Employer Benefit Plan, benefits are provided for medical equipment suitable for home use when determined by a physician to be medically necessary. Q&A 81-38 states that covered durable medical equipment is equipment that a) can withstand use, b) is primarily and customarily used to service a medical purpose, c) generally is not useful to a person in the absence of an illness or injury and d) is appropriate for use in the home.

The Complainant's spouse states that a motorized wheelchair is necessary because she has a torn rotator cuff that makes propelling herself in a manual wheelchair difficult. She also stated that with a motorized wheelchair she could become more mobile.

The Funds' Medical Director reviewed the documentation submitted for a motorized wheelchair. The Medical Director advises that a motorized wheelchair is not medically necessary for the

[1] According to *Dorland's Illustrated Medical Dictionary, 27th Edition*, a conversion disorder is defined as "a mental disorder characterized by conversion symptoms (loss or alteration of physical function suggesting physical illness. . .) having no demonstrable physiological basis. . . ."

diagnosis or treatment of an illness or injury. He further noted that the Complainant's spouse will not benefit from the use of a motorized wheelchair.

The Respondent cited RODs 84-232, 84-270, 84-340 and 88-250 to support its position that the motorized wheelchair is not a covered benefit. The Trustees' findings in this case are based on the merits of the Complainant's spouse's claims and are supported by the above RODs.

Opinion of the Trustees

The Respondent is not required to provide benefits coverage for physical therapy for the Complainant's spouse beyond December 14, 2004, and is not required to provide coverage for a motorized wheelchair.