
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 02-034

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

The Complainant wants to have gastric bypass surgery at a hospital affiliated surgical weight loss program. By letter dated January 17, 2005, preauthorization for the Complainant's gastric bypass surgery was requested by the program's physician. According to the physician, the Complainant is six feet one inches tall and weighs 285.2 pounds. The physician noted that "Based on the Metropolitan Height and Weight Standard, his ideal weight is 167 pounds." The physician stated that "Based on the [Complainant's] historical information, it is my professional opinion that this individual is an excellent candidate for . . . gastric bypass procedure." The Complainant also submitted letters from two other physicians dated April 21, 2005, and October 11, 2005, which state that due to the Complainant's Type 2 diabetes mellitus and coronary artery disease, the Complainant would benefit from the gastric bypass surgery.

The Respondent denied the Complainant's request for pre-authorization for gastric bypass surgery.

Following the denial of the gastric bypass surgery preauthorization request, the Complainant appealed to the Respondent's insurance carrier. The Complainant was notified on March 21, 2005, by letter that his appeal was denied. Following a second level appeal to the Respondent, on August 18, 2005, the Complainant was notified by letter that the appeal was sustained.

Dispute

Is the Respondent required to provide benefits for the Complainant's proposed gastric bypass surgery?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide benefits for the Complainant's gastric bypass surgery because the Complainant meets the requirements to receive the surgery, and it is a covered benefit under the terms of the Employer Benefit Plan.

Position of the Respondent: The Respondent is not required to provide benefits for the Complainant's gastric bypass surgery because the Complainant's "weight is not 200% greater than the desired weight" as required under Article III A. (11) (a) 25 of the Employer Benefit Plan. ROD 175 supports this position.

Pertinent Provisions

Article III. A. (11) (a) 25 of the Employer Benefit Plan states in pertinent part:

(11) General Exclusions

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

25. Charges for treatment of obesity, except for pathological, morbid forms of severe obesity (200% or more of desirable weight) when prior approval is obtained from the Plan Administrator.

Discussion

Article III. A. (11)(a) 25 of the Employer Benefit Plan excludes coverage for the treatment of obesity unless the beneficiary has a pathological, morbid form of severe obesity, which is defined as 200% or more of desirable weight.

The Funds' Medical Director reviewed the information submitted and advised that the Complainant's ideal body weight was listed at 167 pounds and that the Complainant was listed as weighing 285 pounds. The Medical Director noted that the Complainant's weight of 285 pounds did not meet the 200% morbid obese requirements for the covered treatment of obesity under the Employer Benefit Plan.

The Respondent cited ROD 175 in its response. In ROD 175, the Trustees determined that an Employee's spouse was not eligible for gastric bypass surgery because she was not 200% or more of her ideal weight, as required by the Employer Benefit Plan.

Opinion of the Trustees

Based on the documentation submitted, the Respondent is not required to provide benefits for the

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Complainant's proposed gastric bypass surgery.