
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 02-039 – May 1, 2007

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 sought treatment from his physician for back pain. Approximately a week later, on April 25, 2005, the Complainant experienced severe pain in his back while attempting to get out of bed. Consequently, the Complainant contacted his physician's office. He was informed that the physician was not currently in the office and it was unknown when the physician would be in the office. Subsequently, the Complainant went to the emergency room to receive treatment for his back pain.

Coverage for the emergency room charge was denied by the Respondent.

Dispute

Is the Respondent required to provide coverage for the Complainant's visit to the emergency room on April 25, 2005?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide coverage for the Complainant's visit to the emergency room on April 25, 2005, because the Complainant was in severe pain and the Complainant's physician was not available.

Position of the Respondent: The Respondent is not required to provide coverage for the Complainant's visit to the emergency room on April 25, 2005, because "there were other viable alternatives available that could have provided the appropriate level of care in keeping with the language and intent of the Employer Benefit Plan." The Complainant's physician "works with at least three other physicians in the same facility. Surely, one of them was available on that date to treat [the Complainant]." The Respondent states that its position is supported by ROD 78-081.

Pertinent Provisions

Article III A. (2) (a) of the 2002 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 III A. (2) (a) provides emergency room benefits for treatment received within 48 hours of the onset of acute medical symptoms.

The Funds' Medical Director has reviewed the documentation submitted in this case and notes that the Complainant was experiencing stiffness of the lower back for one to two weeks prior to the sudden onset of the severe pain Monday April 25, 2005. According to the Medical Director, severe pain of the lower back can be caused by minor or serious abnormalities and requires an evaluation by a Physician. The emergency room physician did an evaluation to rule out problems that might require admission or surgical intervention including X rays of the lumbo-sacral spine.

The treating emergency room physician certified that the Complainant's condition was an emergency. On a scale of 1 to 10, the Complainant was given a pain rating of 10/10--the maximum level--at discharge. The emergency room records document that the Complainant's severe pain began that day. The Funds' Medical Director has concluded that the severity of the Complainant's pain of one day's duration warranted evaluation in an emergency room department. Therefore, consistent with Article III A. (2) (a) of the 2002 Employer Benefit Plan, the Respondent is required to provide benefits for the emergency room charge for the Complainant's visit on April 25, 2005.

To support its position in this dispute, the Respondent referred to previous Trustee Opinions where coverage for emergency room charges was denied. However, disputes concerning coverage for an emergency room charge are reviewed on a case-by-case basis because each case must be evaluated on its own merits based on the evidence submitted.

Opinion of the Trustees

Consistent with Article III A. (2) (a) of the 2002 Employer Benefit Plan, the Respondent is required to provide benefits for the emergency room charge for the Complainant's visit on April 25, 2005.