
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 02-044

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, while vacationing in Colorado, suffered the acute rupture of a cervical disc that left him with T-1 paraplegia. He was hospitalized from September 3 to September 21, 2006, at the University of Colorado Hospital, Denver, under the care of the Department of Neurosurgery. During hospitalization, the Complainant developed pneumonia, which required a tracheostomy and ventilator support. Due to the Complainant's chronic lung disease and Denver's elevation, he was unable to be weaned from the mechanical ventilation. Complainant was otherwise ready for a lower level of hospitalized care to begin rehabilitation for the paralysis.

The attending physician felt the Complainant would have a better outcome if his long-term hospital rehabilitation were conducted closer to his home in Pennsylvania, and requested pre-certification for air-ambulance transport on September 15, 2006. The attending physician documented the need for air ambulance transport due to the Complainant's continued dependence on the ventilator, and his need for pulmonary treatment at a lower altitude to wean him from the ventilator. Complainant was air ambulated to Select Specialty Hospital in Greensburg, PA on September 21, 2006, for long-term care and rehabilitation. The initial request for air ambulance transport was denied on the grounds that the air ambulance transport did not satisfy the criteria of medical necessity and appropriateness. An Expedited Appeal was denied on the same grounds.

Dispute

Is Respondent required to reimburse Complainant for the cost of the air-ambulance transport of September 21, 2006 from Denver, Colorado to Greensburg, Pennsylvania?

Positions of the Parties

Position of the Complainant: Transport by air-ambulance was prescribed by the attending physician as medically necessary to the Complainant's treatment, and subsequently supported by the rapid improvement of the Complainant once hospitalized at a lower altitude.

Position of the Respondent: An appropriate long term acute care facility was available in the Colorado area. Air ambulance transport was not medically necessary and did not meet the criteria specified in the Plan's Medical Policy.

Pertinent Provisions

The introduction to Article III of the Employer Benefit Plan states in part:

* * *

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 can be performed with equal efficiency at a lower level of care.

* * *

Article III. A. (7)(e) of the Employer's Benefit Plan states in relevant part:

III A. Health Benefits

(7) Other Benefits

(e) Ambulance and Other Transportation

Benefits are provided for ambulance transportation to or from a hospital, clinic, medical center, physician's office, or skilled nursing care facility, when considered medically necessary by a physician.

Article XX of the National Bituminous Coal Wage Agreement states in pertinent part:

(10) HEALTH CARE:

Health care benefits provided under the Employer Benefit Plan are guaranteed during the term of this Agreement subject to the terms of this Agreement at the level of benefits provided in the Employer Benefit Plan.

* * *

The Trustees of the UMWA Health and Retirement Funds shall resolve any disputes, as provided in Section (e)(5), including excessive fee disputes, to ensure consistent application of the health plan provisions in the Employer Benefit Plans and of the managed care programs authorized by this Agreement.

Discussion

Article III. A. (7)(e) of the Employer Benefit Plan states that benefits will be provided for ambulance transportation when considered medically necessary by a physician. In explaining his rationale for recommending the Complainant be transferred to his home state for rehabilitation, the attending physician first emphasized the difference in altitude between the Complainant's home and the location of his initial hospitalization. It is the belief of the physician that the higher altitude of the initial hospitalization exacerbated the difficulty the Complainant was experiencing weaning from the mechanical ventilation. The physician further stated, "Because of the issues with altitude in patients who live essentially at sea level, we felt it was imperative to return (the Complainant) to his home state for his rehabilitation. Additionally, the social support of family in a situation such as this is critical and rehab at our institution would have been inappropriate for that reason alone, not to mention the difficulty he [had] from a pulmonary perspective."

A Medical Policy Bulletin issued by the Respondent's healthcare plan and addressing the issue of air ambulance transport, with an effective date of January 1, 2006, states in part:

Indications and limitations of coverage

* * *

The member's medical condition must require immediate and rapid ambulance transportation that can not be provided by land ambulance and either:

1. The point of pick-up is inaccessible by land vehicle (this condition could be met in Hawaii, Alaska, and in other remote or sparsely populated areas), or
2. Great distances or other obstacles (for example, heavy traffic) are involved in getting the patient to the nearest hospital with appropriate facilities for treatment. The term "appropriate facility" refers to a hospital that is capable of providing the required level and type of care for the patient's illness and has available the type of physician or specialist needed to treat the member's condition.

Medical Necessity

Medical necessity is established when the member's condition is such that the time needed to transport a member by land, or the instability of transportation by land, poses a threat to the member's survival or seriously endangers the member's health.

* * *

Also covered is the transfer of a patient from one hospital to another if medical appropriateness criteria are met and the transferring hospital does not have adequate facilities to provide the medical services needed by the patient. Examples of such services include burn units, cardiac care units, and trauma units. The ambulance transport is covered only if the hospital to which the patient is transferred is the nearest one with appropriate facilities.

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Miscellaneous

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If the air transport was medically appropriate but the member could have been treated at a nearer hospital than the one to which they were transported, the air transport payment is limited to the rate to the nearer hospital.

The Respondent's Medical Policy Bulletin places restrictions on air ambulance transport that are not contained in the Employer Benefit Plan. Article XX of the NBCWA contains a list of Cost Containment programs mutually agreed to by the UMWA and the BCOA including coordination of benefits, generic drug substitution and Participating Provider Lists. The cost containment programs in the NBCWA do not include the restrictions implemented through Respondent's Medical Policy Q-5.

At the time of the transfer, the Complainant was ventilator-dependent, newly paralyzed, and still receiving treatment for pneumonia. An additional two to three months of hospitalization were anticipated as the Complainant adapted to being paraplegic. A further consideration in the decision to return the Complainant to his home state was the negative psychological impact of isolation in a facility more than one thousand miles from his spouse, who had to return to her place of employment. It is the opinion of the attending physician in Colorado that rehabilitation at the Colorado facility "would have been inappropriate" because the social support of family in a situation such as this is critical even without the Complainant's additional pulmonary complications.

In question is whether the psychological needs of a newly paralyzed individual constitute "medical necessity." It is the belief of the attending physician and the nurse practitioner who initially treated the Complainant that proximity to his home was essential to the recovery of the Complainant and to his adaptation to being paraplegic.

Respondent cites RODs 81-485 and CA-005 in support of the decision to deny benefits for the air ambulance. However, in ROD 81-485, both facilities in question were located in Colorado and were equally able to provide the needed care. It was the opinion of the Trustees in ROD 81-485 that the transfer was primarily for the convenience of the family and to enhance parental bonding with a newborn, and therefore not medically necessary.

In ROD CA-005, the patient was clinically stable when air ambulated from his home state of Kentucky to the Mayo Clinic in Minnesota where a physician who had previously treated the patient was located. This ROD was referred to arbitrator who agreed with the opinion that the same procedure, the placement of a shunt, could be performed at a facility closer to the patient's home, and so the required medical necessity was absent.

In this case, it was the opinion of the attending physician that the location of the Complainant for his initial hospitalization was negatively impacting his prognosis. The Funds' Medical Director has reviewed the material submitted and is of the opinion that the medical documentation in the file supports the medical necessity requirements of Article III of the Employer Benefit Plan for the air ambulance transport of the Complainant.

Opinion of the Trustees

The air ambulance transport of the Complainant from the initial hospitalization site to a facility in his home state is deemed medically necessary. Consistent with the provisions of the Employer Benefits Plan, the Employer is required to reimburse the Complainant for the cost of the air ambulance transport.