

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 07-0010 – September 19, 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's spouse underwent gastric bypass surgery in 2004, subsequently losing a considerable amount of weight. The primary care physician of the Complainant's spouse reported weight loss of approximately 85 pounds in the first twelve months, resulting in the development of excessive skin folds, and states that the excessive skin folds are causing chafing and yeast infections in the skin folds. The primary care physician recommends that the excessive skin be removed surgically as a treatment for the chafing and infections, and referred Complainant's spouse to a plastic surgeon. In addition to excising the excess skin from the thigh and arm areas, the plastic surgeon also recommends breast reduction surgery to relieve neck, back and shoulder pain and to relieve rashes under the breast. The plastic surgeon believes this surgery is medically necessary. The primary care physician believes the Complainant's spouse will benefit medically from the procedures.

The plastic surgeon submitted a request for pre-certification of the proposed procedures to the Complainant's insurance carrier who denied coverage for the proposed procedures.

Dispute

Are the requested surgical procedures covered under the Employer Benefit Plan?

Positions of the Parties

Position of the Complainant: The chafing and infections experienced by the Complainant's spouse are medical conditions that would be eliminated by the requested surgical procedures. As treatments for a medical condition, the requested surgery is covered under the Employer Benefit Plan.

Position of the Respondent: The requested surgical procedures are cosmetic in nature and are not covered under the Employer Benefit Plan.

Pertinent Provisions

The Introduction to Article III of the Employer's 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.

Article III. A. (3) (p) 9. of the Employer Benefit Plan states:

- (p) Services Not Covered
 - 9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are those which are reasonable and necessary for the diagnosis or treatment of an illness. Article III. A. (3) (p) 9 states that cosmetic surgery is not covered under the Plan unless it is performed to correct surgical scars or to correct results of an accidental injury or birth defects.

The Funds' Medical Director has reviewed the documentation in this case and has determined that the medical documentation submitted by the primary care physician and the plastic surgeon does not provide evidence of medical necessity for the requested procedures. In the absence of medical necessity, the requested procedures are determined to be cosmetic in nature and are not covered under Article III of the Employer Benefit Plan.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide medical benefits for the requested cosmetic surgical procedures on the Complainant's spouse.