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## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 07-0032 - January 27, 2010

Trustees: Micheal W. Buckner, Daniel L. Fassio, and Michael H. Holland.

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 son of the Complainant is a disabled, eight year-old male diagnosed with Duchenne's Muscular Dystrophy. Muscle wasting as the disease progresses prohibits the use of a conventional, hand-propelled wheelchair. A motorized wheelchair, equipped with breath controls in anticipation of the time when the patient is no longer able to use the joystick, was approved in May 2008.

Complainant states that in the past the wheelchair, which weighs between 200 and 300 pounds, was lifted into the bed of his truck by 2-3 people when transporting his son to appointments. This necessitated that he take off from work to help his wife on days that his son needed to be transported. The Complainant originally requested either a wheelchair lift or a vehicle equipped with a lift so that his son can be transported to and from necessary medical appointments. Since filing the ROD, the Complainant replaced his truck with a smaller vehicle that will not accommodate the wheelchair and is requesting a van already equipped with a wheelchair lift.

Complainant states that there is no transport service available in his area to take his son to and from appointments. Complainant's request for a wheelchair lift or a lift-equipped van has been denied by Respondent as a non-covered benefit.

### Dispute

Is Respondent required to provide either a wheelchair lift or a lift-equipped van so that Complainant's son may be transported to and from medical appointments?

### Positions of the Parties

Position of the Complainant: It is medically necessary for Complainant's son to receive medical care. Therefore, since the child's wheelchair cannot be transported by the family in the family vehicle, Respondent must provide a vehicle suitable for transporting Complainant's son and wheelchair to and from medical appointments.

Position of the Respondent: The requested lift and lift-equipped vehicle are not covered benefits because they are intended for use outside the home.

### Pertinent Provisions

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

(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, Sections 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 wheelchairs.
2. Medical supplies necessary to maintain homebound or bedridden Beneficiaries. Examples of covered supplies are enema supplies, disposable sheets and pads (also called "Chux" or "blue pads"), supplies for home management of open or draining wounds, heating pads (for therapeutic use only) and insulin needles and syringes.
  3. Oxygen, as specified in Article III, Section A (6) (e).

Article III A. (7). (e) states:

(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.

With prior approval from the Plan Administrator benefits will also be provided for other transportation subject to the following conditions:

1. If the needed medical care is not available near the Beneficiary's home and the Beneficiary must be taken to an out-of-area medical center.
2. If the Beneficiary requires frequent transportation between the Beneficiary's home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment which would otherwise require hospitalization, benefits will be provided for such transportation only when the Beneficiary cannot receive the needed care without such transportation.
3. If the Beneficiary requires an escort during transportation, the attending physician must submit satisfactory evidence as to why the Beneficiary needs an escort.

Discussion

The Employer Benefit Plan provides for the purchase or rental of medical equipment suitable for home use when deemed to be medically necessary by a physician. The treating physician in this case believes the lift or lift-equipped van is medically necessary because without them the patient cannot keep medical appointments needed for his treatment. However, the equipment requested is for use outside of the home and related solely to transportation of the patient and, therefore, is not a covered benefit under the terms of the Employer Benefit Plan. See ROD 88-261.

The Plan does provide for ambulance transportation to or from a hospital, clinic, medical center, physician's office, or skilled nursing care facility when such transport is considered medically necessary by a physician. The Plan also provides transport service if the medical care needed by the patient is not available near the patient's home and the patient must be taken to an out-of-area medical center to receive such care. Transport service is also available if the patient requires frequent transportation between his home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment which would otherwise require hospitalization and the patient cannot receive the needed care without such transportation.

Opinion of the Trustees

Consistent with the terms of the Employer Benefit Plan, the Respondent is not required to provide coverage for either a wheelchair lift or lift-equipped vehicle as requested.