
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 07-0051

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 presented at the Emergency Room (ER) on November 15, 2009, with symptoms that included vertigo and vomiting. The spouse was admitted to the hospital from the ER and released two days later. In a letter dated May 27, 2010, the Respondent denied the charges associated with the inpatient admission to the hospital as being not medically necessary. The billing department at the hospital informed the Funds that neither the in-patient charges nor the ER charges have been paid.

Dispute

Is the Respondent required to pay the Emergency Room and in-patient charges associated with the ER visit and subsequent admission of the Complainant's spouse on November 15, 2009?

Positions of the Parties

Position of the Complainant: The ER and in-patient charges were medically necessary and are covered benefits.

Position of the Respondent: Respondent did not submit a response.

Pertinent Provisions

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

ARTICLE III BENEFITS

...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 tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. The benefits described in this Article are subject to any precertification, prescription drug formulary (PDP) requirements, and other utilization review requirements implemented pursuant to Article IV. Covered services that are medically necessary will continue to be provided, and accordingly, while benefit payments are subject to prescribed limits, this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III A. (1)(a) of the Employer Benefit Plan states:

(a) Semi-private room

When a Beneficiary is admitted by a licensed physician (hereinafter "physician") for treatment as an inpatient to an Accredited Hospital (hereinafter "hospital"), benefits will be provided for semi-private room accommodations (including special diets and general nursing care) and all medically necessary services provided by the hospital as set out below for the diagnosis and treatment of the Beneficiary's condition.

- Operating, recovery, and other treatment rooms
- Laboratory tests and x-rays
- Drugs and medication (including take-home drugs which are limited to a 30-day supply)
- Chemotherapy
- Anesthesia services
- Diagnostic or therapy items and services
- Radiation therapy

Physical therapy
Oxygen and its administration
Intravenous injections and solutions
Administration of blood and blood plasma
Blood, if it cannot be replaced by or on behalf of the beneficiary

Article III A. (10) (h) of the Employer Benefit Plan states in pertinent part:

(h) Explanation of Benefits (EOB) and Hold Harmless

2. The Employer and the UMWA agree that excessive charges and escalating health costs are a joint problem requiring a mutual effort for solution. In any case in which a provider attempts to collect excessive charges or charges for services not medically necessary, as defined in the Plan, from a Beneficiary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the Provider. Whether the Plan Administrator or his agent negotiates a resolution of a matter or defends a legal action on a Beneficiary's behalf, the Beneficiary shall not be responsible for any legal fees, settlements, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided under the Plan.

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Discussion

The Complainant's spouse went to the Emergency Room (ER) on November 15, 2009, after waking that morning with vertigo and vomiting. Tests conducted in the ER were normal with the exception of elevated blood glucose. The patient was administered anti-vertigo medication, which seemed to help her symptoms of vertigo, and she was subsequently admitted to the hospital with a diagnosis acute vertigo, likely positional in nature.

Funds' Medical Director has reviewed the ER and hospitalization records and has opined that the ER visit was medically necessary, as were the initial tests conducted in the ER. Funds' Medical Director opined that the patient could have been observed for a few more hours in the ER in lieu of the subsequent inpatient admission. Funds' Medical Director deems the hospitalization of the

Complainant's spouse on November 15, 2009, not medically necessary.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide medical benefits for the hospitalization of the Complainant's spouse on November 15, 2009. Respondent is required to hold the Complainant harmless for the charges related to the hospitalization on November 15, 2009.