
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 11-0065 – August 5, 2015

Trustees: Michael H. Holland, Marty D. Hudson and Daniel R. Jack

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

Complainant's spouse was prescribed Nuvigil (Armodafinil) for chronic migraine headaches, cervical dystonia, fibromyalgia (with associated depression), chronic fatigue, degenerative disc disease and osteoarthritis of the cervical and lumbar spine. She had been on multiple medications in the past but was started on Nuvigil on September 17, 2009. Complainant's spouse has experienced good results with Nuvigil.

Respondent's pharmacy benefit manager denied Complainant's spouse's prior authorization request for Nuvigil because she had not been diagnosed with narcolepsy, obstructive sleep apnea/hypopnea syndrome, or shift-work sleep disorder in accordance with her plan's coverage criteria.

Dispute

Is Respondent required to provide benefits for the Nuvigil prescribed for Complainant's spouse?

Positions of the Parties

Position of the Complainant: The medication is medically necessary and a covered benefit under the Employer Benefit Plan.

Position of the Respondent: Complainant's spouse's use of Nuvigil is not medically necessary. There is no evidence in peer-reviewed medical literature that Nuvigil is safe and effective for the treatment of chronic fatigue not related to narcolepsy, obstructive sleep apnea or shift-work sleep disorder.

Pertinent Provisions

The introduction to Article III of the Employer Benefit Plan states in pertinent 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.

* * *

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

Article III.A(4)(a) of the Employer Benefit Plan states in pertinent part:

(4) Prescription Drugs

(a) Benefits Provided

Benefits are provided for insulin and prescription drugs (only those drugs which by Federal or State law require a prescription) dispensed by a licensed pharmacist and prescribed by a (i) physician for treatment or control of an illness or a nonoccupational) [sic] accident or (ii) licensed dentist for treatment following the performance of those oral surgical services set forth in (3)(e).

Discussion

The Introduction to Article III of the Employer Benefit Plan excludes from coverage those services which are not medically necessary, including procedures that are of unproven or questionable current usefulness.

The Funds' Medical Director reviewed the documentation in this case and noted that, while the federal Food and Drug Administration has approved Nuvigil for use by persons with narcolepsy, obstructive sleep apnea and shift-work sleep disorder, the current scientific literature provides little evidence that Nuvigil is safe and effective for the conditions for which it was prescribed in this case. Consequently, the Funds' Medical Director concluded that the use of Nuvigil is not

medically necessary for the prescribed indications.

Opinion of the Trustees

Pursuant to Article III of the Employer Benefit Plan, Respondent is not required to provide benefits for the Nuvigil prescribed for Complainant's spouse.