
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 11-0070 – July 23, 2014

Trustees: Michael H. Holland, Michael O. McKown, 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 received therapy for Dupuytren's contracture on September 12, 2012, and October 2, 2012, at a rehabilitation services center. Respondent's third party administrator upheld the payment denial for the therapy charges on appeal because, it claimed, they are "not eligible when rendered in a provider's office" and "occupational therapy is not covered under the professional line of business under the Indemnity Agreement."

Dispute

Is Respondent required to provide benefits for the therapy Complainant's spouse received on September 12, 2012, and October 2, 2012?

Positions of the Parties

Position of the Complainant: The Employer Benefit Plan covers the therapy that Complainant's spouse received on September 12, 2012, and October 2, 2012.

Position of the Respondent: Services rendered by an occupational therapist are not eligible under the professional line of business under the National Bituminous Coal Wage Agreement of 2011.

Pertinent Provisions

Article III.A(7)(b) of the Employer Benefit Plan states:

(7) Other Benefits

(b) Physical Therapy

Benefits are provided for physical therapy in a hospital, skilled nursing facility, treatment center, or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician and administered by a licensed therapist. The physical therapy treatment must be justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration.

Discussion

Article III.A(7)(b) of the Employer Benefit Plan provides benefits for physical therapy provided in a treatment center, prescribed and supervised by a physician and administered by a licensed therapist. Whether services claimed to be occupational therapy constitute physical therapy turns on a review of the evidence (See RODs 84-230 and 88-448).

The Funds' Medical Director has reviewed the documentation in the file and concluded that the services in dispute were physical therapy (regardless of the terminology actually used), medically necessary, prescribed and supervised by a physician and delivered by a licensed therapist in a treatment center. Among other things, the physical therapy services included tendon-gliding exercises and active range of motion exercises to improve the patient's range of motion and relieve pain in her right hand. Inasmuch as the services in dispute meet the requirements of Article III.A(7)(b) of the Employer Benefit Plan, Respondent is required to provide benefits for them.

Opinion of the Trustees

Pursuant to Article III.A(7)(b) of the Employer Benefit Plan, Respondent is required to provide benefits for the therapy that Complainant's spouse received on September 12, 2012, and October 2, 2012.