
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 11-0083 – September 11, 2014

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

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 sought prior approval for reduction mammoplasty to relieve back pain and mitigate the progression of kyphoscoliosis (curvature of the spine). The patient has sought non-surgical treatments including weight loss (more than 50 pounds), physical therapy, a TENS unit, back injections, and Lidocaine patches, that have all failed to stem the progression of her symptoms. Medications (an opiate analgesic, anti-inflammatory agent, and muscle relaxant) have reduced but not fully eliminated the pain, which continues to interfere with day-to-day functioning.

Respondent's Third Party Administrator denied the prior authorization because the weight of the tissue to be removed did not meet minimum criteria. On appeal, the denial was upheld after an independent review by a plastic surgeon who could not "establish with reasonable certainty that the symptoms will improve following a reduction mammoplasty" and, therefore, concluded that "the proposed procedure is not medically necessary."

Dispute

Is Respondent required to provide benefits for Complainant's spouse's reduction mammoplasty?

Positions of the Parties

Position of the Complainant: The surgery is an appropriate treatment of a spinal disease and is a covered benefit under the Plan.

Position of the Respondent: The surgery is not medically necessary. The denial of the prior authorization should be upheld.

Pertinent Provisions

Article III.A(3)(a), (f) and (p)(9) of the Employer Benefit Plan state, in pertinent part:

(3) Physicians' Services and Other Primary Care

(a) Surgical Benefits

Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedure (including the usual and necessary post-operative care) for the treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

(f) Surgical Services Limitations

Benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Such surgical procedures include, but are not limited to, the following:

Plastic surgery, including mammoplasty

Reduction mammoplasty

(p) Services Not Covered

9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

Discussion

Article III.A(3)(a) of the Employer Benefit Plan provides benefits for surgical procedures essential to a Beneficiary's care for the treatment of illnesses. Article III.A(3)(f) of the Employer Benefit Plan states that benefits are not provided for reduction mammoplasty without the prior approval of the Plan Administrator. However, the Trustees have reviewed reduction mammoplasty prior approval decisions in previous RODs. *See* RODs 98-026 and 88-420.

Finally, Article III.A(3)(p)(9) of the Employer Benefit Plan excludes cosmetic surgery from coverage, unless it pertains to surgical scars or is to correct the results of an accidental injury or birth defects.

The Funds' Medical Director has reviewed the documentation in the file and opined that "since the standard conservative therapies have been relatively ineffective, breast reduction surgery is an appropriate alternative to treat the spine disease." The Funds' Medical Director further stated that "a reduction mammoplasty is reasonable and necessary for the Plan to cover in this patient because the procedure would treat a significant medical illness and would not serve any cosmetic purposes."

Inasmuch as the reduction mammoplasty is medically necessary for the treatment of an illness and is not for cosmetic purposes, Respondent's denial of prior approval is not justified in this case.

Opinion of the Trustees

Pursuant to Article III.A(3)(a), (f) and (p)(9) of the Employer Benefit Plan, Respondent is required to provide benefits for Complainant's spouse's reduction mammoplasty.