
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 11-0140 – June 28, 2017

Trustees: Michael H. Holland, Marty D. Hudson, and Joseph R. Reschini

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 Employer provides dental benefits to its active employees and their dependents. The Complainant's child, born July 8, 2011, requires extensive dental work involving 15 teeth that includes extractions, crowns, pulps, and/or fillings. Because of the extensive work required and reported fear and behavior issues associated with dental visits by the child, the dentist believes that it is medically necessary to perform the procedures in a hospital setting with the child under anesthesia. The dentist does not have the equipment to anesthetize the child in her office. Pre-approval for the anesthesia and the associated hospital costs was submitted to the Respondent's health benefit plan and was denied by the Respondent as not being a covered benefit.

Dispute

Is the Respondent required to provide coverage for hospital and anesthesia charges associated with the dental procedures on the Complainant's child?

Positions of the Parties

Position of the Complainant: The Complainant's child is five (5) years old and West Virginia state law requires hospital and anesthesia coverage to be provided for dental procedures on children under the age of seven (7).

Position of the Respondent: The anesthesia and the associated hospital costs are not covered benefits under the Employer Benefit Plan.

Pertinent Provisions

Article III A. (3)(e) and (11)(a)(19) of the Employer Benefit Plan states:

ARTICLE III BENEFITS

A. Health Benefits

(3) Physicians' Services and Other Primary Care

(e) Oral Surgery

Benefits are not provided for dental services.

(11) General Exclusions:

(a)(19) Dental Services.

Article XXA. Sections III. D. and G.(4) of the National Bituminous Coal Wage Agreement state:

ARTICLE XXA. DENTAL PLAN

SECTION III. Benefits

D. CLAIMS REQUIRING PREDETERMINATION OF BENEFITS

If a course of treatment for you or one of your Dependents can reasonably be expected to involve dentist's charges of \$150 or more, ...a description of the procedures to be performed and an estimate of the dentist's charges must be filed with the claims administrator prior to the commencement of the course of treatment.

G. EXCLUSIONS

Charges for the following are not Covered Dental Expenses:

* * *

(4) Substances or agents which are administered to minimize fear or charges for analgesia, unless the patient is handicapped by cerebral palsy, mental retardation or spastic disorder;

ERISA Section 514(a), Supersedure;

Except as provided in subsection (b) of this section, the provision of this title and title IV **shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan** described in section 4(a) and not exempt under section 4(b).

29 U.S.C. 1144(a), emphasis added.

Discussion

ERISA broadly preempts “any and all State laws insofar as they may now or hereafter relate to any employee benefit plan” covered by ERISA with limited exceptions. The Respondent’s health benefit plan is an “employee benefit plan” subject to ERISA. The National Bituminous Coal Wage Agreement (Wage Agreement) provides for active classified employees and their dependents to receive dental coverage from the Employer. The use of “agents to minimize fear” are covered in limited and specific situations, none of which appear to be present in the Claimant’s child. Although the State of West Virginia provides for general anesthesia for dental procedures and associated outpatient facility charges if the patient is seven years of age or younger without the need for a pre-existing condition, ERISA preempts West Virginia’s state law with regards to the terms of Respondent’s health benefit plan. Any laws that the state of West Virginia may enact regarding levels of health care etc., are rendered inapplicable to the Respondent’s employee benefit plan. Here, the Employee Benefit Plan specifically excludes dental coverage, anesthesia, and hospital coverage for dental procedures except in certain specific instances. The Claimant’s basis for requesting anesthesia in a hospital setting for his child’s dental procedures does not meet any of the requirements as set forth in either the Employer Benefit Plan or in the Wage Agreement.

Opinion of the Trustees

Pursuant to the provisions of the Employer Benefit Plan and the National Bituminous Coal Wage Agreement, the Respondent is not required to pay for the anesthesia and outpatient facility charges associated with the dental work to be performed on the Complainant’s child.