
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 16-0001 – September 27, 2017

Trustees: Michael H. Holland, Marty D. Hudson, Michael O. McKown,
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 was diagnosed with hypogonadotropic hypogonadism by an endocrinologist in September 2015. The Complainant's symptoms included decreased libido and sleep abnormalities. In October 2015, the Complainant was prescribed chorionic gonadotropin to treat this condition. This drug can also be prescribed to treat infertility. This prescription was paid for as a covered benefit by the Complainant's employer through January 2016. The company employing the Complainant was acquired by the Respondent in December 2015 and in January 2016 the new company's Third Party Administrator started processing claims. The Complainant was sent a denial for the medication in February 2016 claiming that it was a non-covered infertility drug. However, the Respondent admits that it erroneously continued to reimburse the Complainant for the prescription through August 2016. The denial of the medication has been upheld by the Respondent.

Dispute

Whether chorionic gonadotropin is a covered benefit for which the Respondent is required to pay, when it is prescribed to treat an illness and not to treat infertility?

Positions of the Parties

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

Position of the Respondent: The Respondent is not required to provide benefits for the prescribed medication because it is not for the treatment of an illness or injury, rather the medication is for treatment of infertility and is not specifically a covered item.

Pertinent Provisions

Article III A.(4)(a) and (b)(3) of the Employer Benefit Plan states in pertinent part:

ARTICLE III BENEFITS

A. Health Benefits

(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 non-occupational accident or (ii) licensed dentist for treatment following the performance of those oral surgical services set forth in 3(e).

* * *

(b) Benefits Excluded

Benefits shall not be provided under subsection (4)(a) herein for the following:

* * *

4. Any medication not specifically provided for in (a) above.

Discussion

Article III.A(4)(a) of the Employer Benefit Plan provides benefits for prescription drugs that are dispensed by a licensed pharmacist and that were prescribed by a physician for the treatment or control of an illness or a nonoccupational accident. At issue is whether this medication was prescribed for the treatment of infertility, which is not a covered benefit, or for the treatment of an illness, which is a covered benefit. The Funds Medical Director reviewed the documentation in this matter and noted that while the 25-year-old Complainant was being evaluated for infertility he was diagnosed with hypogonadotropic hypogonadism. The results of the medical tests and the Complainant's clinical history of decreased libido and sleep abnormalities were the basis of the endocrinologist's diagnosis of his illness. Thus, this is a medical condition separate and apart from the infertility.

Because the Complainant is actively trying to have children, chorionic gonadotropin was prescribed in place of testosterone therapy, as it is less likely to interfere with sperm production. As noted, the Complainant had been using chorionic gonadotropin and the records show that his excessive fatigue and testosterone levels improved. The Funds' Medical Director concluded that the use of chorionic gonadotropin is medically necessary to treat the Complainant's diagnosed medical illness of hypogonadotropic hypogonadism. The medical records further show that the treatment protocol will be to continue the use of chorionic gonadotropin until infertility is no longer an issue and then change to testosterone for the long-term treatment of the Complainant's hypogonadotropic hypogonadism. The fact that the prescribed medication also benefited the Complainant's infertility condition, unlike the alternate treatment testosterone, which would have exacerbated it, is not grounds for denying the medically covered treatment of hypogonadotropic hypogonadism. Therefore, the prescription medication for the treatment of that illness is a covered benefit under the Employer Benefit Plan.

Opinion of the Trustees

Pursuant to Article III.A(4)(a) of the Employer Benefit Plan, the Respondent is required to pay for the Complainant's chorionic gonadotrophin.