
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer (Insurance Carrier)
ROD Case No. 104, May 20, 1980

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee;
Paul R. Dean, Trustee

Pursuant to Article IX of the United Mine Workers of America 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute of coverage for treatment of obesity and hereby render their opinion on the matter.

Background Facts

Complainant is an active mine worker eligible for health benefits under the Employer's Plan. The Employee is under the care of a physician for treatment of obesity. The Employee's height is 6' 1/2" and his weight is 234 pounds. He suffers from no other illness. The physician prescribed the medication Sanorex as treatment for the Employee's obesity. Sanorex is a diet drug used to treat exogenous obesity and is usually prescribed only for short-term therapy.

Charges incurred for prescriptions of Sanorex on October 13, 1979 and November 10, 1979 were paid by the Insurance Carrier. Charges incurred for prescriptions of Sanorex on December 11, 1979 and January 18, 1980 were denied by the Insurance Carrier.

Question or Dispute

Are benefits provided for Sanorex, when prescribed as treatment for obesity?

Position of Parties

Complainant: The Insurance Carrier should provide benefits for drugs and medication prescribed by a physician. These benefits should be administered consistently.

Respondent: According to the information provided by the attending physician, the Employee is receiving Sanorex for treatment of obesity. According to the requirement described in 1978 Contract Question and Answer #38, benefits cannot be provided for treatment of obesity unless the beneficiary is 200% or more of desirable weight. The Employee is 6' 1/2" and weighs 234 pounds, and therefore does not meet this requirement. Charges incurred on October 13, 1979 and

November 10, 1979 were paid prior to the receipt by the Insurance Carrier of the Q&A #38. Charges incurred on December 11, 1979 and January 18, 1980 were denied in accordance with the provisions of Q&A #38.

Applicable Regulations

- o Article III, Section A, (3)(h) of the Plan provides as follows:

"Benefits are provided for services rendered to a beneficiary at a home, at a clinic, or in the physician's office for the treatment of illnesses or injuries, if provided by a physician."

- o Article III, Section A (4)(a) of the Plan provides as follows:

"Benefits are provided for insulin and prescription drugs prescribed by a physician for treatment or control of an illness or non-occupational accident."

- o 1978 Contract Question and Answer #38 provides as follows:

Question:

1. a) Under the Article III, Section A (3)(h) the benefits are limited to services "for the treatment of illnesses or injuries, if provided by a physician." In this context, is the treatment of obesity, where no other pathology exists (e.g., hypertension, cardiovascular disease, diabetes), a covered benefit?
- b) Under what conditions are benefits provided for the surgical treatment of obesity?

Answer:

1. a) Yes, if the diagnosis signifies pathological, morbid form of severe obesity, i.e., 200% or more of desirable weight. Beneficiaries eligible for obesity benefits at the onset of treatment are eligible for such benefits until they reach desirable weight.
- b) Benefits are not provided for surgical treatment of obesity unless all of the following conditions are met:
 1. the beneficiary's condition meets the above definition of obesity;
 2. other, more conservative therapies have been tried and proven unsuccessful; and
 3. authorization has been obtained from the Plan Administrator.

Discussion

According to the provisions of 1978 Contract Question and Answer #38, benefits are only provided for a beneficiary whose "diagnosis signifies a pathological, morbid form of severe obesity, i.e., 200% or more of desirable weight." In applying this standard in this case, the Employee does not meet the minimum requirement. Therefore, benefits cannot be provided for the treatment of the Employee's obesity.

Benefits had previously been provided for the two prescriptions for Sanorex in October and November because the Insurance Carrier was not aware at that time of the clarification of obesity benefits as defined in Q&A #38. Such payments were made in accordance with the provisions in the Employer's Plan for Drugs and Medications. The provision of benefits for the treatment of obesity was revised by the Insurance Carrier upon publication of Q&A #38. Payments made prior to the publication of Q&A #38 are not subject to the requirements established in that Q&A.

Opinion of Trustees

The Trustees are of the opinion that the Insurance Carrier is not responsible for coverage of the medication prescribed as treatment of Employee's obesity.