

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 116, July 24, 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 concerning coverage for medication dispensed from a clinic and hereby render their opinion on the matter.

Background Facts

The employee is an active mine worker eligible for health benefits under the Employer's Plan. During the contract year beginning March 27, 1979 extending through March 26, 1980, the employee's four dependent children incurred charges for medications which were prescribed and dispensed by a physician at a local pediatric clinic. Claims for reimbursement of these expenses were submitted to and subsequently denied by the Insurance Carrier.

Question or Dispute

Is the Employer responsible for payment of the charges related to the medications dispensed from the local clinic for the employee's children?

Position of the Parties

Claimant's Position: The Employer should provide reimbursement for the expenses incurred by the employee for the prescription drugs dispensed from the clinic. According to Article XX of the NBCWA of 1978, covered drug prescriptions can be filled at drug stores, clinics, and hospital prescription offices. Secondly, the Insurance Company should properly notify the beneficiary as to the reason a claim is denied payment.

Employer's Position: According to Article II, Section A (4)(b) of the Employer's Plan, medications dispensed from a physician's office are excluded from coverage. However, coverage is provided for prescriptions filled at clinics prescription offices if a pharmacy is located in the clinic or a physician has a pharmaceutical license and operates a pharmacy out of his office. The clinic from which the employee received the medications does not have a

pharmacy on the premises or does the attending physician have pharmaceutical license, or a pharmacy in his office.

Therefore, charges for the medications prescribed and dispensed from the clinic were denied coverage in accordance with the Plan. Secondly, the employee was sent a notice on April 20, 1979 related to a claim for a prescription purchased at the clinic stating that medicine dispensed within a physician's office is a non-covered expense.

Applicable Regulations

- Article III, Section A (4)(b) of the Employer's Plan excludes the following:

"Medications dispensed from a physician's office."

- Article III, Section A (3)(p) 6 of the Employer's Plan excludes the following:

"Medications dispensed from a physician's office."

- 1978 Contract Question and Answer #35, as approved by the Trustees on June 27, 1979, provides as follows:

Subject: Drugs Dispensed in a Physician's Office, Nursing Home or Clinic

References: Amended 1950 & 1974 Benefit Plans & Trusts, Art. III, Sect. A (4) and Sect. A (5) (a) 5

Question:

1. A physician operates a pharmacy in his office and he employs a full-time licensed pharmacist to dispense drugs which are prescribed by him. His pharmacy is licensed with the State Pharmacy Board.
2. A nursing home owns and operates a pharmacy located within the nursing home facilities. The pharmacy is state licensed and the drugs are dispensed by a state licensed pharmacist for beneficiaries who are not confined in the nursing home and who have already been released.
3. An organized clinic which is state licensed (or is recognized as a clinic by the Plan Administrator) employs a state licensed pharmacist who packages and dispenses its drugs. The clinic itself is not licensed as a pharmacy.
4. A physician dispenses drugs from his office, which is not licensed as a pharmacy.

Are drugs dispensed from each of these pharmacies covered under the 1978 Agreement?

Answer:

1, 2 & 3: Yes

4: No

Discussion

According to the provisions of the Plan, medications dispensed from a physician's office are excluded from coverage. 1978 Contract Q&A #35 provides that prescription drugs will be covered under the Plan when dispensed from a physician's office, nursing home or clinic if such settings employ a licensed pharmacist and/or operate a licensed pharmacy on the premises.

The pediatric clinic in this case does not employ a licensed pharmacist, not does it operate a licensed pharmacy. Therefore, in accordance with the Employer Plan and Q&A #35, prescriptions dispensed from this clinic are not covered benefits.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for providing coverage for the medications dispensed from this clinic to the Employee's dependent children.