

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 126, January 27, 1981

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 prescription drug benefits and hereby render their opinion on the matter.

Background Facts

The Complainant is an active mineworker eligible for health benefits under the Employer's Plan. The Insurance Carrier has denied the payment of claims submitted by the Employee for a supply of Similac PM 60/40. Similac is an infant formula which can be fed to those infants whose renal, digestive, and/or cardiovascular functions would benefit from lowered mineral and protein levels, as found in human milk. This is not a legend drug for which a prescription is required. The Employee states that the supply of infant formula was prescribed by a urologist who performed surgery on the Employee's baby for treatment of a chronic kidney disorder.

Dispute

Is the Employer responsible for the payment of claims for a supply of infant formula?

Position of the Parties

Position of Claimant: The Employee feels that since he was given a written prescription for the infant formula by the urologist, he should be able to receive credit towards his prescription deductible. The prescription is for a special infant formula necessary to treat kidney disorders.

Position of Employer: The Employer has not responded to the Funds' three requests for a statement on his position.

Pertinent Provisions

- Article III, A(4)(a) of the Employer's Plan provides benefits for insulin and prescription drugs prescribed by a physician for treatment or control of an illness or a non-occupational accident.
- 1978 Contract Question and Answer #34, approved by the Trustees on May 24, 1978 provides as follows:

Subject: Definition of Prescription Drug Benefit

References: Employer's Plan, Article III, Section A(4)(a) and (b).

Question: What is covered under the prescription drug benefit?

Answer: The Funds will pay for medication prescribed by a physician for treatment or control of a chronic (long term) illness or injury as listed on the Funds' Basic Drug List which was in effect on December 5, 1977.

For acute (short-term) illnesses or injuries, the Funds will pay for medication which, by Federal Law or regulation, can be dispensed only with a prescription. For acute illnesses or injuries, the benefit does not include drugs, medication, or supplies that may be obtained over the counter (OTC) without a prescription. Examples of items not covered for the treatment of acute illnesses or injuries are: bicarbonate of soda, antacids (e.g., Maalox), aspirin, and many cough or cold preparations. Even though some birth control drugs require a prescription they are not a covered benefit regardless of the purpose for which they are prescribed. Because some state laws or regulations may differ, the Federal Laws and regulations will prevail in the interest of maintaining uniformity of benefits from one state to another.

All prescriptions must state the diagnosis.

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#### Discussion

Pursuant to Article III, Section(4) of the Employer's Plan, benefits are provided for drugs prescribed by a physician for the treatment or control of an illness or a non-occupational accident. Contract Q&A #34 further clarifies that benefits are provided for drugs for the treatment of a chronic illness only when prescribed by a physician and when the medication is listed on the Funds' Basic Drug List. In this case, although the Similac 60/40 PM may have been prescribed by a physician, this infant formula does not require a prescription, nor is it listed on the Funds' Basic Drug List. Therefore, this formula is not a medication for which benefits are provided.

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The Trustees are of the opinion that the Employer is not responsible for payment of charges for a supply of infant formula.