
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 159, 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 coverage for an assistant podiatrist's fee and hereby render their opinion.

Background Facts

On April 23, 1980, the Employee's dependent spouse underwent minor surgery for the removal of bilateral intermetatarsal neuroma of the foot. The surgery was performed by a licensed podiatrist in his office. He was assisted by a second podiatrist. The Insurance Carrier has paid all the charges incurred as a result of the surgery, except the assistant surgeon's fee of \$82.50, which was denied.

Dispute

Is the Employer responsible for coverage of the assistant podiatrist's fee?

Position of the Parties

Position of the Complainant: The Employee is questioning the denial of the assistant surgeons fee.

Position of the Respondent (Insurance Carrier): The respondent relies on the "Surgical Benefits" section of their Plan, which they claim states:

- (2) Assistance in the actual performance of the procedure, if the type and complexity of the procedure or the condition of the person on which it is performed requires such assistance and the person is a hospital inpatient when the procedure is performed.

Based on that provision, the respondent concludes that the assistant podiatrist's fee is not covered because the procedure was not performed on an inpatient basis. In addition, the respondent relies on the "Generally Excluded Charges" section of the Plan, which they claim states:

- (3) Charges for unnecessary services and supplies - charges for any service or supply not reasonably necessary for the medical care of the patient's sickness or injury; charge made by a hospital to the extent that they are allocable to scholastic education or vocational training of the patient as determined by (Insurance Carrier).

Based thereon, the respondent concludes that, to be considered reasonably necessary, the service must be ordered by a Physician and must be commonly and customarily recognized as appropriate in the treatment of the patient's diagnosed sickness or injury. The assistant podiatrist's service is not considered medically necessary under this standard.

Position of Respondent (Employer): The Employer agrees with the Insurance Carrier's position.

Applicable Regulations

Article III, Section A(3)(b) of the Employer's Plan provides as follows:

If the Beneficiary is an inpatient in a hospital, benefits will also be provided for the services of a physician who actively assists the operating physician in the performance of such surgical services when the condition of the Beneficiary and type of surgical service require such assistance.

Article III, Section A(3)(n) of the Employer's Plan provides as follows:

Benefits are provided for minor surgery rendered by a qualified licensed podiatrist. Routine care of the feet, such as trimming of nails, the treatment of corns, bunions (except capsular or bone surgery therefor) and calluses is excluded.

Covered minor surgery includes surgery for ingrown nails and surgery in connection with the treatment of flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet.

Benefits for major surgical procedures rendered by a licensed podiatrist are not provided, except of surgery is rendered in a hospital.

Article III, Section A(10)(a)25, of the Employer's Plan provides as follows:

(10) General Exclusions:

25. Any type of services, supplies or treatments not specifically provided by the Plan.

Discussion

Article III, Section A(3)(n) of the Employer's Plan provides benefits for minor surgery rendered by a qualified licensed podiatrist. Such services were covered by the Insurance Carrier. However, under this Podiatrists' Services provision of the Plan, there is no reference made to the allowable coverage for podiatrists who assist in surgery. Benefits for assisting a surgeon under Article III, Section A(3)(b) are only provided for surgery provided on an inpatient basis. The procedure in this case was provided on an outpatient basis. Consequently, it is not a covered service.

Article III, Section A(10)(a)25, states that any types of services, supplies or treatments not specifically provided by the Plan are excluded from coverage. Therefore, because assistant podiatrist's services are not specifically provided by the Plan, such services are excluded from coverage.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for coverage of the assistant podiatrist's fee.