

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Insurance Carrier
ROD Case No: 167, February 23, 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 surgeon's fee and hereby render their opinion on the matter.

Background Facts

The Employee is a mineworker eligible for health Benefits under the Employer's Plan. The Employee's dependent son underwent surgery on August 20, 1979 for a routine tonsillectomy and adenoidectomy. The Employer provided benefit coverage for all related charges, except a \$25.00 assistant surgeon's fee which was denied because the Insurance Carrier determined that the operation did not require such services. The operating surgeon stated that he had requested the assistant because he preferred to be assisted by an internist and the hospital did not have one on call at the time of the surgery. The assistant surgeon stated that the surgery was without complication and that the Employee's son is essentially healthy and does not suffer from any underlying medical condition.

Dispute

Is the Employer responsible for the assistant surgeon's fee of \$25.00?

Position of the Parties

Position of Employee: The Employer is responsible for the assistant surgeon's fee. The attending physician has explained that because the hospital did not have an internist on 24 hour call, as most hospitals do, it was necessary to call upon another surgeon to assist in the operation.

Position of Insurance Carrier: The Insurance Carrier has determined that the Employees ineligible for the \$25.00 fee for the assistant surgeon connection with the tonsillectomy and adenoidectomy procedure. This position is based upon the following two provisions of the employer's Plan:

a) Within the "General Definitions" section under "Generally Excluded Charges", it 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; charges made by a Hospital to the extent that they are allocable to scholastic education or a vocational training of the patient; as determined by (Insurance Carrier).

b) Also, under "A. Surgical Benefits". it states:

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 Hospital inpatient when the procedure is performed.

Pertinent Provisions

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

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 the type of surgical service require such assistance.

Discussion

Article III, A (3)(b) of the Employer's Plan provides benefits for the services of an assistant surgeon when the following two conditions are met: (1) the beneficiary is an inpatient in a hospital, and (2) the condition of the beneficiary and the type of surgical service require such assistance. The Insurance Carrier has denied payment of the assistant surgeon's fee based on the determination that the surgical procedure of tonsillectomy and adenoidectomy does not require the services of an assistant surgeon. Further, the assistant surgeon has stated that the surgery was routine in nature and that the Employee's son did not suffer from any underlying medical conditions. Therefore, benefits should not be provided for the assistant surgeon's fee because neither the condition of the Employee's son nor the type of surgical service performed required such assistance.

Opinion of the Trustees

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