

OPINION OF THE TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 202 September 30, 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 the provision of health benefits to an Employee's dependent son and hereby render their opinion on the matter.

Background Facts

On the evening of September 17, 1980, the Employee's dependent 17 year old son was admitted to the outpatient department of a hospital for the emergency treatment of a .22 caliber gunshot wound in his left elbow, sustained during his involvement in an attempted burglary of a tool shed. The charge for the outpatient hospitalization was \$90.65. He was transferred later that evening (September 18, 1980) to another hospital where he remained until September 30, 1980. The cost of the hospitalization was \$3,143.60. In addition, the Employee was charged for ambulance transportation (\$239.50) and the service of an anesthesiologist (\$321.00). The total charge for all these services was \$3,794.75.

The Insurance Carrier denied these charges, stating "expenses incurred for reasons other than accidental bodily injury are illness are not covered under your (Employer's) Plan".

Dispute

In the Employer required to provide payment of charges for the medical services necessary for the Employee's son because of a gunshot wound to the elbow?

Position of the Parties

Employee's Position: The Employer is responsible for payment of the incurred charges because the injury his son sustained was the result of the accidental discharge of a rifle.

Employer's Position: Under the Employer's Plan, benefits are provided for medical services necessary because of an accidental bodily injury or illness. Under Article III, Sections A (2) (a),

A (3) (i), and A (4) (a), of the Employer's Plan, which apply to the rendered services in this case, charges can only be considered for accidental bodily injury. The facts in this case indicate that the Employee's son's wound was not an accidental injury. Therefore, benefits cannot be provided for the services rendered to treat the wound.

Pertinent Provisions

- Article III, Section A (1) (a) of the Employer's Plan provides, in part:

When a Beneficiary is admitted by a licensed physician (hereafter "physician"), for treatment as an inpatient (overnight confinement) to an Accredited Hospital (hereinafter "hospital"), benefits will be provided for semi-private room accommodations (including special diets and general nursing care) and all medically necessary services provided by the hospital...for the diagnosis and treatment of the Beneficiary's condition.

Medically necessary services provided in a hospital include the following:

- Operating, recovery, and other treatment rooms, laboratory tests and x-rays
- Diagnostic or therapy items and services
- Drugs and medications (including take-home drugs which are limited to a 30-day supply)
- Radiation therapy
- Chemotherapy
- Physician therapy
- Anesthesia services
- Oxygen and its administration
- Intravenous injections and solutions
- Administration of blood and blood plasma
- Blood, if it cannot be replaced by or on behalf of the Beneficiary

- Article III, Section A (2) (a) of the Employer's Plan provides:

Benefits are provided for a Beneficiary who receives emergency medical treatment or treatment of an injury as the result of an accident, provided such emergency medical treatment is rendered within 48 hours following the onset of medical symptoms or the occurrence of the accident.

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

Benefits are provided for the administration of anesthetics provided either in or out of the hospital in surgical or obstetrical cases, when administered and billed by a physician, other than the operating surgeon or his assistant, who is not an employee of, nor compensated by, a hospital, laboratory, or other institution.

- Article III, Section A (7) (e) of the Employer's Plan provides, in part, as follows:

Benefits are provided for ambulance transportation to or from a hospital, clinic, medical center, physician's office, or skilled nursing facility, when considered medically necessary by a physician.

Discussion

The Employer denied charges incurred by the Employee's son for inpatient hospitalization, outpatient emergency room services, anesthesiologist services and ambulance transportation, stating that expenses incurred for reasons other than accidental bodily injury are not covered under the Employer's Plan. Under Article III, A (1) (a) of the Employer's Plan, benefits are provided by the hospital for the diagnosis and treatment of the Beneficiary's condition. Under Article III, A (3) (d) of the Employer's Plan, benefits are provided for the administration of anesthetics provided in the hospital in surgical cases, when administered and billed by a physician, other than the operating surgeon or his assistant, who is not an Employee of, nor compensated by, a hospital, laboratory, or other institution. Under Article III, A (7) (e) of the Employer's Plan, benefits are provided for ambulance transportation to or from a hospital, when considered medically necessary by a physician. None of these provisions make reference to the cause of injury as a condition for payment. In this case, each of the conditions for payment of these services is met, as provided for under the Employer's Plan. Therefore benefits should be provided for the inpatient hospitalization, anesthesiologist's services, and ambulance transportation.

Under Article III, A (2) (a) of the Employer's Plan, benefits are provided for a Beneficiary who receives emergency treatment or treatment of an injury as the result of an accident, provided such treatment is rendered within 48 hours following the occurrence of the accident. Here, the emergency treatment was received within 48 hours of the injury. However, the Employee's son was not injured in an accident. The injury was the direct result of the son's criminal activity. The son should have foreseen the possibility that he would be injured during the attempted burglary. Therefore, the emergency room charges should be denied.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is required to provide payment for inpatient hospitalization, anesthesiologist's services, and ambulance transportation. However, the Employer is not required to pay for emergency room services.