
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 204, March 26, 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 copayments for allergy desensitization therapy for the Employee's dependent spouse 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. The Employee's spouse underwent a series of desensitization injections for her allergy to pollen and different kinds of foods. She visited the doctor's office each month in order to have an injection administered by a nurse. During these visits, she did not see a physician. This allergen therapy continued for a period of three years, ending on December 20, 1979.

Commencing February 1, 1979, the Employee became covered by a new Insurance Carrier. The Employee was charged \$5.00 for each visit, and these charges were applied towards his \$150.00 annual copayment maximum.

Dispute

Are the Employee's spouse's allergy desensitization injections subject to copayments?

Position of the Parties

Complainant: The Employer is responsible for payment of the injections in full. Copayments should not be taken for the injections.

Respondent: Each time the Employee's spouse received an allergy injection, she visited the doctor's office. In accordance with 1978 Contract Question and Answer No. 12, a visit to the physician's office to receive an injection is subject to copayment, even if the patient does not see the physician. Therefore, the Employee's spouse's allergy desensitization injections are subject to copayments.

Pertinent Provisions

- Article III, A (8) of the Employer's Plan provides in part as follows:

Certain benefits provided in this Plan shall be subject to copayments set forth below and such copayments shall be the responsibility of the Beneficiary.

- (a) Physician services as an outpatient as set forth in section A (2) and the benefits set forth in section A (3), paragraph (c) but only for pre and post-natal visits in addition to the charge for delivery, and paragraphs (g) through (m), paragraph (q) except inpatient surgery, paragraph (o) and Section A (7) paragraph (f).

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

Benefits are provided for services rendered to a Beneficiary at home, clinic, or in the physician's office for the treatment of illness or injuries, if provided by a physician.

- 1978 Contract Question and Answer No. 12, as approved by the Trustees on April 3, 1978, provides as follows:

Subject: Definition of "Physician Visit"

Question: It is not uncommon for a patient to visit a physician's office and not see the physician. For example, the patient may see a nurse or "physician extender" for B/P check, injection, etc. If the patient is not seen by the physician, is the non-physician visit in the physician's office subject to copayment?

Answer: Yes. The following definition of "visit" should be used where the visit is otherwise covered:

"A face-to-face consultation for examination, diagnosis, treatment or advice. It is a visit if the consultation described above is provided by a physician or by a nurse or other person acting under the physician's supervision. The term "Physician" includes osteopathic physicians as well as M.D.s, but it does not include chiropractors."

- 1978 Contract Question and Answer No. 48, as approved by the Trustees on June 19, 1978, provides as follows:

Subject: Allergy Desensitization Therapy

Question: 1. Are allergy desensitization injections subject to copayment?

2. Are allergens for injections a covered benefit?

Answer: 1. & 2. Allergy desensitization therapy is subject to copayment when such therapy involves visits to a physician for examination, diagnosis, treatment or advice. On-going administration of allergy desensitization therapy, including injections in a series for desensitization and costs of materials (e.g., allergens for desensitization), which is routine in nature and administered by a non-physician, is not subject to copayment.

Discussion

1978 Contract Q & A #12 provides that a "physician visit" is subject to copayment, even if the patient is not actually seen by the physician. Q & A #46, however, specifically addresses allergy desensitization therapy.

Q & A #46 provides that the on-going administration of allergy desensitization therapy, including injections in a series for desensitization and costs of materials, which is routine in nature and administered by a non-physician, is not subject to copayment.

The Employee's spouse received allergy desensitization therapy over a three year period. The injections were done on a routine basis once a month and were administered by a nurse in a physician's office. Therefore, the visits are not subject to copayment.

Opinion of the Trustees

The Trustees are of the opinion that the Employee's spouse's allergy desensitization injections are not subject to copayment.