
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent; Employer
ROD Case No: 81-224 November 2, 1983

Board of Trustees: Harrison Combs, Chairman; John Y. O'Connell, Trustee; Paul R. Dean, Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 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 of adult disposable diapers for the Employee's mentally retarded and disabled dependent by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter,

Background Facts

The Employee's 11 year old dependent, who has Cerebral Palsy and is mentally retarded, is required to use disposable diapers because of her incontinence. The dependent attends a special school and because of this is not considered homebound. Since the Employee's dependent is not considered homebound, the Employer has denied coverage of the incontinence supplies.

Dispute

Is the Employer responsible for payment of charges for adult disposable diapers for the Employee's dependent?

Positions of the Parties

Employee's Position: The adult disposable diapers should be covered because they are necessary for the proper care of the Employee's dependent.

Employer's Position: The Employer properly denied coverage of adult disposable diapers in accordance with the provisions of Q&A 81-38, since the Employee's dependent is not homebound.

Pertinent Provisions

Question and Answer #81-38:

Discussion

Question and Answer #81-38 interprets the provisions of the 1950 Benefit Plans to provide benefits for supplies including, but not limited to, "waste collection and retention devices for incontinent people". The adult disposable diapers in this case are used as a necessary supply for the maintenance of an incontinent patient and therefore are not considered convenience items. These incontinent supplies therefore fall within the provisions of Q&A 81-38. Because of the foregoing, the Employer is responsible for payment for the Employee's dependent's incontinence supplies.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is responsible for the payment of charges for the Employee's dependent's adult disposable diapers.