
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 81-229, July 25, 1983

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 ("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 the Employee's eligibility for medical benefits from the Employer and hereby render their opinion on the matter.

Background Facts

The Employee's dependent mother was admitted to an intermediate care facility on February 12, 1981, where she remained until December 8, 1981, except for a short period of hospitalization during August 1981. The facility is not licensed under the Federal Medicare program.

The patient's diagnosis was chronic brain syndrome, cardiovascular accident, arteriosclerotic heart disease and cardiac rhythm disturbance. In addition, she had a pacemaker. In the facility, the care required by the patient consisted of assistance in eating, bathing, dressing, turning, transfers, administration of oral medication, routine services to maintain the satisfactory functioning of a foley catheter and routine care required by an incontinent patient.

The patient's admitting physician states that the patient is completely disoriented, unable to care for herself, and incontinent, and that for the rest of her life she will require constant attention for her needs by individuals skilled in such care. No statement from her attending physician was submitted.

Question or Dispute

Is the Employer responsible for the payment of $8,750.89 for services received by the patient at the intermediate care facility from February 12, 1981 through December 8, 1981?

Position of the Parties

Position of Employee: Under the Plan, he should be reimbursed the $8,750.89 he paid for room and board.

Position of Employer: The care the patient received is custodial care, and the facility is an intermediate care facility, not a skilled nursing facility. Therefore, the services are not covered under the Plan.

Pertinent Provisions

Article III, Section A.(5)(a) and (b) provides:

(5) Skilled Nursing Care and Extended Care Units

(a) Skilled Nursing Care Facility

Upon determination by the attending physician that confinement in a licensed skilled nursing care facility[1] is medically necessary, to the extent that benefits are not available from Medicare or other State or Federal programs, benefits will be provided for:

1. skilled nursing care provided by or under the supervision of a registered nurse;

2. room and board;

3. physical, occupational, inhalation and speech therapy, either provided or arranged for by the facility;

4. medical social services;

5. drugs, immunizations, supplies, appliances, and equipment ordinarily furnished by the facility for the care and treatment of inpatients;

6. medical services, including services provided by interns or residents in an approved, hospital-run training program, as well as other diagnostic and therapeutic services provided by the hospital; and

7. other health services usually provided by skilled nursing care facilities.

The Plan will not pay for services in a nursing care facility:

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[1] Skilled nursing care facility is limited to a skilled nursing care facility which is licensed and approved by Federal Medicare.

1. that is not licensed or approved in accordance with state laws or regulations;

2. unless the service is provided by or under the direct supervision of licensed nursing personnel and under the general direction of a physician in order to achieve the medically desired results.

Exclusions:

Telephone, T.V., radio, visitor's meals, private room or private nursing (unless necessary to preserve life), custodial care, services not usually provided in a skilled nursing facility.

(b) Extended Care Units

Benefits are provided for up to two weeks of specialized medical services and daily treatments by licensed personnel in extended care units. When medically necessary, benefits may be provided for a longer period of time, subject to approval from the Plan Administrator.

The Plan will not pay for services in an extended care unit unless, in the case of a Medicare patient, such extended care has prior approval of Medicare.

Exclusions:

1. Services, drugs or other items which are not covered for hospital inpatients;

2. Custodial care.

Discussion

Under Article III. A. (5) of the Employer's Plan, benefits are provided for skilled nursing care only if the nursing care is rendered in a licensed skilled nursing care facility (approved by Federal Medicare), and the level of care required by the patient is skilled. Benefits for custodial care are specifically excluded, and no benefits are provided for intermediate care.

The facility in which the patient was confined is an intermediate care facility, not a skilled nursing facility, and is not approved by Federal Medicare. On this basis, the patient would not qualify for skilled nursing care benefits under the Employer's Benefit Plan.

As an additional basis for its denial of benefits, the Employer states that the patient did not require skilled nursing care. The Trustees do not address this issue. Even assuming that the patient required skilled nursing care, she would still not be eligible for such benefits under the

Employer Benefit Plan, because the facility in which she was confined is not a Medicare-approved skilled nursing facility.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not required to pay for the services received by the Employee's dependent mother during her confinement in the intermediate care facility.