OPINION OF TRUSTEES

In Re

Complainant: Retiree
Respondent: Employer
ROD Case No: 81-277 - November 28, 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 coverage of adult disposable diapers for the Retiree by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on.the matter.

Background Facts

The Retiree is totally incapacitated and has been bed confined for the past three (3) years. He is required to use disposable diapers because of his incontinence. Employer has denied coverage of the incontinence supplies.

Dispute

Is the Employer responsible for payment of charges for adult disposable diapers for the Retiree?

Positions of the Parties

Retiree's Position: The adult disposable diapers should be covered because they are necessary for the proper care of a bedridden homebound patient.

Employer's Position: The Employer properly denied coverage of adult disposable diapers in accordance with the provisions of Q&A 81-38, since they are a convenience item.

Pertinent Provisions

Question and Answer #81-38:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trusts, Article III, Sections A (6) (d) and (e), and A (7) (a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where, appropriate as determined by the Plan Administrator, or purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when. determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:

1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented, (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheel chairs.

2. Medical supplies necessary to maintain homebound or bedridden Beneficiaries. Examples of covered supplies are enema supplies, disposable sheets and pads (also called "(flux" or "blue pads"), supplies for home management of open or draining wounds, heating pads (for therapeutic use only) and insulin needles and syringes

3. Oxygen, as specified in Article III, Section A (6) (e).

B. Under the Other Benefits provision, benefits are provided for the following:

1. Orthopedic and prosthetic devices prescribed by a physician when medically necessary, including items necessary for their effective use. These include, but are not limited to, the following items:

- prosthetic devices replacing internal or external body parts (other than dental), such as cardiac pacemakers, maxillofacial devices and devices replacing all of the ear or nose, and waste collection and retention devices for incontinent people (e.g., catheters, ostomy bags and supplies)
- prosthesis following breast removal, including surgical brassieres
- leg, arm, back and neck braces
- trusses
- stump stocking and harnesses (see Article III, Section A (7)(a) (5)
- surgical stockings (see 1981 Contract Q&A #46)
- orthopedic shoes and corrections (see Article III, Section A (7) (a) 7 and 8)

2. Hearing aids (see Article III, Section A (7) (d)).

C. Items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits. Examples of such items are: ordinary support (panty) hose, garter belts, disposable paper cups or towels, cotton balls, cotton swabs, bandaids, exercise equipment, and foot pads for bunions or calluses.

Covered items under A and B are not subject to copayment.

Discussion

Question and Answer #81-38 interprets the Home Services and Equipment provisions of the 1950 Benefit Plans to provide benefits for supplies including, but not limited to, those necessary to maintain homebound or bedridden beneficiaries.

In this case, the adult disposable diapers are supplies that are necessary to maintain the Retiree and thus satisfy the provisions of Q&A #81-38. Therefore, the Employer is responsible for payment for the Retiree'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 Retiree's adult disposable diapers.