

OPINION OF TRUSTEES

In Re

Complainant: Retiree
Respondent: Employer
ROD Case No: 81-337 - November 28, 1983

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

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 review the facts and circumstances of this dispute concerning the level of health benefits for pediatric services and hereby render their opinion on the matter,

Background Facts

The Complainant is a disability pensioner eligible for health benefits under the Employer's Benefit Plan. On March 18, 1983, he underwent corrective foot surgery in his pediatricist's office to correct a painful hammer toe on his right foot and for the removal of painful exostosis and the release of tendon contractures on his left foot, The Employer has denied payment for the charges relative to the surgery,

Question of Dispute

Is the Employer responsible for payment of the charges incurred by the Retiree as a result of his outpatient podiatric, surgery?

Position of the Parties

Complainant's Position: The Employer is responsible for payment of the charges for the surgery performed in the pediatricist's office.

Employer's Position: The Employer is not responsible for payment of the charges because the Plan requires (1) major surgery to be performed in a hospital and (2) prior approval of the Plan Administrator. The Employer contends that neither of these conditions were satisfied in this case.

Pertinent Provisions

o Article III A. (3) (n) provides:

PRIMARY CARE - PODIATRISTS' SERVICES

Benefits are provided for minor surgery rendered by a qualified licensed podiatrist. Routine care of the feet such as trimming of nails, the treatment of corns, bunions (except capsular or bone surgery therefor) and calluses is excluded.

Covered minor surgery includes surgery for ingrown nails and surgery in connection with the treatment of flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet.

Benefits for major surgical procedures rendered by a licensee podiatrist are not provided, except if such surgery is rendered in a hospital.

Discussion

Under Article III A. (3)(n) of the Employer's Benefits Plan, benefits are provided for minor surgery rendered by a qualified licensed podiatrist. There is no requirement that minor surgery be performed in a hospital or receive prior approval of the Plan Administrator.

This disabled miner underwent surgery to correct a painful hammer toe on his right foot and for the removal of a painful exostosis and the release of tendon contractures on his left foot. This surgery was performed on an outpatient basis by a podiatrist in his office. None of the surgical procedures performed is difficult or hazardous. These procedures were performed as surgical management for basically minor problems.

The Employer's rationale for denying this claim is that these procedures constitute major surgery. The Funds' medical staff and physician consultant have reviewed this case and have determined that this surgery is generally considered minor surgery which can be safely and effectively performed by a podiatrist in an outpatient setting.

Because these procedures constitute minor surgery and were performed by a qualified licensed podiatrist for the treatment of symptomatic non-routine complaints of the feet, the Plan provisions regarding podiatry services, have been satisfied.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is responsible for providing benefits for podiatric surgery performed on the Pensioner on March 18, 1983.