
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 81-404 -March 26, 1984

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 the level of health benefits for organ transplant surgery for the Employee's spouse and hereby render their opinion on the matter.

Background Facts

The Employee is a mine worker eligible for benefits under the Employer's Benefit Plan. The Employee's spouse has had kidney problems for the past eight years and has been on dialysis since November 1982. On June 13, 1983, she was admitted to the hospital in order to undergo surgery for a kidney transplant. On June 20, 1983, the Employee's spouse was discharged from the hospital after successful transplant surgery. Although the Employee's spouse's medical expenses were paid primarily by Medicare, the Employer has denied coverage of the remaining charges, because prior authorization of the organ transplant was not obtained from the Plan Administrator.

Question of Dispute

Is the Employer responsible for payment of the charges incurred by the Employee's spouse as a result of her organ transplant surgery?

Position of the Parties

Position of the Employee: The Employee and his representative contend that the Employer is responsible for payment of the charges relative to the Employee's spouse's transplant surgery, because the Employer implied preauthorization by taking payment for charges resulting from a kidney transplant evaluation.

Position of the Employer: The Employer is not responsible for payment of the charges relative to the Employee's spouse's kidney transplant because prior approval of the Plan Administrator was neither requested nor granted.

Furthermore, the Plan Administrator notes that neither the insurance carrier nor the Plan Administrator had any knowledge of the transplant prior to the receipt of claims for this service.

Pertinent Provisions

Article III A. (3) (f) of the Employer's benefit Plan states:

(f) Surgical Services Limitations

Benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Such surgical procedures include, but are not limited to, the following:

Plastic surgery, including mammoplasty
Reduction mammoplasty
Intestinal bypass for obesity
Gastric bypass for obesity
Cerebellar implants
Dorsal stimulator implants
Prosthesis for cleft palate if not covered by crippled children's services
Organ transplants

Question and Answer #81-19 states:

Subject: Coverage of Organ Donors and Recipients

References: Amended 1950 & 1974 Benefit Plans & Trusts, Article III, Sections A (1) (a) and A (3) (a) and (f)

Question:

1. If a Beneficiary must receive a transplanted organ, will benefits be provided for medical and/or surgical fees for both the recipient and the donor? What if the donor is not covered by the Plan?
2. Will benefits be provided if a Beneficiary donates an organ to a recipient not covered by the Plan?

Answer:

1. Yes, if the transplant is medically necessary. Medical or surgical fees directly related to the donation of an organ by a non-covered patient will be considered part of the surgical fees of the entire operation and will be covered by the Plan.

2. Yes. Benefits will be provided for medical and/or surgical fees for the donor for an organ donation to a non-covered patient if the organ donor is a Beneficiary and neither the recipient's insurance coverage nor any special programs cover the cost of hospitalization, surgery and related expenses.

All organ transplant procedures must receive prior approval of the Plan Administrator.

Discussion

Article III A. (3) (f) of the Employer's Benefit Plan establishes that benefits are not provided for organ transplants without prior approval of the Plan Administrator. Q&A 81-19 reiterates the requirement of prior authorization for all organ transplant procedures. The Employee and his representative contend that "implied pre-authorization" was issued by the Employer, based on the fact that the company paid for a "kidney transplant evaluation." The Employee and his representative had submitted copies of itemized bills and Explanation of Benefits forms demonstrating payment for services which they allege are the result of the Employee's spouse's kidney transplant evaluation. It should be noted that the outpatient charges resulting from services provided to the Employee's spouse were paid for in full by Medicare and the State Renal Fund. The Employer made no payment on these charges. The professional charges relative to physician services the Employee's spouse received were paid for by Medicare, the primary payor in this instance, with the Employer making payment for the appropriate co-insurance amounts less any applicable co-payment.

Although requested, neither the Employee nor his representative have provided any clinical records which would support their contention that the Employee's spouse underwent a renal transplant evaluation as alleged or that the Employer had notice that the services it paid for were for a renal transplant evaluation. In addition, although the Employee and his spouse were aware as early as February 1983 that the spouse would require a kidney transplant, there is no evidence that the Employee sought prior authorization for his spouse's June 1983 transplant surgery. The Trustees are therefore of the opinion that the Employer is not responsible for payment of the charges resulting from the Employee's spouse's kidney transplant surgery because prior approval was not obtained.

In his Request for Resolution of Dispute, the Employee states that the Employer should have an obligation to inform its beneficiaries of prior authorization requirements and that the plan booklet the beneficiaries receive is not detailed. The Employer's Summary Plan Description includes a clear statement that benefits will not be paid for organ transplants without prior authorization from the Employer's Plan Administrator. The Trustees conclude, therefore, that the Employer did provide sufficient notice to the Employee of the prior authorization requirement.

Opinion of the Trustees

The Employer is not responsible for payment of charges resulting from the Employee's spouse's kidney transplant surgery in this case.