

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 81-487 - August 31, 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 provision of benefits for durable medical equipment under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Pensioner is a disabled miner eligible for health benefits under the Employer's Benefit Plan. The Pensioner has, according to a physician, an "extensive back history with multiple previous lumbar laminectomies, including lumbar fusion for back pain and right leg weakness." As a result of this condition, this physician felt that "a waterbed would be medically beneficial and also necessary for this patient's condition." A second physician addressed the Pensioner's need for the waterbed and has stated that "the flotation system will provide continual therapeutic aid for his debilitating condition" and that "this system may also eliminate the high cost of long term physical therapy associated with his condition."

The Pensioner has purchased a waterbed at a cost of \$1,207.38. The Employer has denied payment for the waterbed.

Dispute

Is the Employer responsible for the payment of the charges for a waterbed for the Pensioner's use?

Positions of the Parties

Position of the Pensioner: The Pensioner and his representative contend that the purchase of the water flotation mattress was medically necessary, and that because there has been a subsequent savings of thousands of dollars in health care costs to the provider since the purchase of this bed, the Employer is responsible for the cost incurred by the Pensioner in purchasing the water flotation mattress.

Position of the Employer: The Employer contends that waterbeds are not considered medical equipment. The Employer cites Article III A. (11) 26. of the Employer's Benefit Plan which states that the Plan will not pay for any type of services, supplies or treatments not specifically provided by the Plan. Also referenced by the Employer is Article III A. (11) 23. which excludes from coverage medical devices and therapy which are experimental in nature.

Pertinent Provisions

Article III A. 6.(d) of the Employer's Plan provides as follows:

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A 81 - 38 provides in part as follows:

- Subject: Medical Equipment and Supplies.

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, 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.

Discussion

Q & A 81-38 states that benefits are provided for the rental or purchase of medical equipment including, but not limited to, durable medical equipment. Covered durable medical equipment is that which (a) can withstand use; (b) is primarily and customarily used to serve 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. Although the waterbed at issue in this case can withstand use, is appropriate for use in the home, and may be medically beneficial and provide the Pensioner with a therapeutic aid for his condition, its primary and customary use is non-medical, and could be useful to the Pensioner in the absence of his condition. Therefore, the waterbed cannot be considered durable medical equipment for which benefits are provided under Article III A. 6.(d) of the Employer's Benefit Plan.

Opinion of the Trustees

The Employer is not responsible for payment of the charges for the purchase of a waterbed for the Pensioner's use.