

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 81-581 - May 20, 1985

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., 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 payment for hyperbaric oxygen therapy for multiple sclerosis and hereby render their opinion on the matter.

Background Facts

The Complainant's spouse has been diagnosed as having multiple sclerosis. In her specific case, this disease has resulted in her being totally and permanently disabled. The Complainant's spouse has undergone the usual forms of treatment for this illness, but it continues to progress despite those measures. In a further effort to treat her illness she has begun hyperbaric oxygen therapy, a medical treatment which involves the use of a pressure chamber in which the patient is placed to breathe pure oxygen at pressures greater than those in the normal atmosphere.

Question or Dispute

Is the Respondent responsible for payment of charges for hyperbaric oxygen therapy for the Complainant's spouse's multiple sclerosis?

Position of the Parties

Position of the Complainant: Treatment for multiple sclerosis is a covered benefit. Therefore, hyperbaric oxygen therapy for the Complainant's spouse's multiple sclerosis should be considered a covered benefit and be paid for by the Respondent.

Position of Respondent: Hyperbaric oxygen therapy is an experimental form of treatment for multiple sclerosis and has not been proven or recognized by a majority of medical experts to be effective in the treatment of this disease. Therefore, the Employer is not obligated to pay for such treatments.

Pertinent Provisions

Article III A. (11) (a) 24 of the Employer Benefit Plan states:

- (a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

24. Charges for treatment with new technological medical devices and therapy which are experimental in nature.

Discussion

According to Article III A. (11) (a) 24. of the Employer Benefit Plan, benefits are excluded for treatment with new technological medical devices and therapy which are experimental in nature. In an attempt to establish that the use of hyperbaric oxygen therapy for his wife's multiple sclerosis is an acceptable form of treatment in this instance, the Employee has provided documentation from three physicians. Although each physician appears to support the use of hyperbaric oxygen therapy for the Complainant's spouse's multiple sclerosis, none of the three establishes or states that this therapy is a proven or effective treatment for multiple sclerosis.

The Undersea Medical Society, the leading professional authority on hyperbaric oxygen therapy, has addressed this therapy's effectiveness as a means of treating multiple sclerosis. It has concluded that there is no known scientific rationale for the treatment of multiple sclerosis in a hyperbaric chamber, and that there is insufficient evidence at this time to demonstrate that multiple sclerosis should respond to increased partial pressure of oxygen.

Medicare provides coverage of hyperbaric oxygen therapy for a limited number of conditions. The use of this therapy for multiple sclerosis is not one of those conditions for which Medicare makes payment.

Because hyperbaric oxygen therapy for multiple sclerosis is still being researched and is considered an investigational procedure, the charges resulting from this therapy are not a covered benefit under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not responsible for payment of charges for hyperbaric oxygen therapy for the Complainant's spouse's multiple sclerosis.