

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No.: 81-686 - May 28, 1986

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 ("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 the provision of health benefits for an orthopedic consultation under the terms of the Employer Benefit Plan.

Background Facts

As a result of an occupational injury sustained May 3, 1983, the Employee receives workers' compensation benefits, which include payment of medical expenses related to the injury, from the West Virginia Workers' Compensation Fund (WCF). The Employee's physician requested prior authorization from WCF for evaluation of thoracic outlet syndrome by a physician practicing in Boston, Massachusetts. The WCF did not authorize a trip to Boston for the evaluation but did refer the Employee to a physician in Charleston, West Virginia for the same evaluation. The Employee, however, traveled to Boston and incurred expenses for x-rays of the spine and shoulders and a comprehensive orthopedic consultation on September 30, 1983. The Employee then returned to Charleston and saw the WCF-appointed physician for the same services on October 10, 1983.

WCF paid the charges of the Charleston physician but denied payment of the charges of the Boston physician because the out-of-state evaluation was not authorized by the WCF and because it duplicated the evaluation performed by the WCF-appointed local physician. The WCF decision not to pay the charges for the out-of-state evaluation was protested by the Employee and is in appeal.

The Employee has requested that the Employer pay the charges related to the evaluation conducted by the Boston physician under the terms of the Employer Benefit Plan.

Question or Dispute

Is the Employer responsible for the provision of health benefits coverage for the x-rays and examination by the out-of-state physician?

Position of the Parties

Position of the Employee: The Employer is responsible for the provision of health benefits for the x-rays and examination by the Boston physician under the terms of the Employer Benefit Plan, because the Workers' Compensation Fund will not pay for them.

Position of the Employer: The Employer is not responsible for the provision of health benefits for the x-rays and examination by the Boston physician because the services are covered by the state workers compensation program and therefore are specifically excluded from coverage under the Employer Benefit Plan. The Workers' Compensation Fund denied payment for the out-of- area services because the Fund had specifically refused prior authorization for them, had arranged for them to be performed by a physician in Charleston and had paid the charges for the same services performed by the Charleston physician.

Pertinent Provisions

Article III. A. (11) (A) 1 of the Employer Benefit Plan states:

(11) General Exclusions

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

1. Cases covered by Workers' Compensation laws or employer's liability acts or services for which an employer is required by law to furnish in whole or in part.

Discussion

Article III. A. (11) (a) 1 of the Employer Benefit Plan excludes benefits for services covered by Workers' Compensation laws. The Employee receives state workers' compensation benefits, which include payment of medical expenses related to the injury. The evaluation for thoracic outlet syndrome was related to the injury, and was, as demonstrated by the WCF's payment for the local evaluation, covered by Workers' Compensation laws. The services performed by the Boston physician were an unauthorized duplication of the services performed by the Charleston physician and paid by the WCF. Under this circumstance, benefits for the thoracic outlet syndrome evaluation are specifically excluded under Article III. A. (11)(a) 1 of the Employer Benefit Plan.

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The Employer is not responsible for the provision of health benefits coverage for the x-rays and examination.