

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 81-733 - January 27, 1988

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 benefits for arm surgery.

Background Facts

Due to weight loss, the Employee's spouse developed excessive skin on her arms which caused her pain and irritation. Her physician stated that the loose skin on her arms caused her functional difficulty in that it interfered with the movement of her arms and it was irritated by her clothing. On January 21, 1983, her physician performed surgery (laxis cuts of arms) to remove the excessive skin. The Employee says his spouse has resulting keloid type scars, which are long and highly visible and negate the cosmetic benefits. The Employee maintains that no one would voluntarily incur these scars unless the surgery would provide relief from pain and irritation, which it did.

The Employee received notice from the Employer's insurance carrier that benefits for the surgery had been denied as not covered by the Plan. He was subsequently informed by the Employer that the plastic surgery performed on his spouse was determined to be cosmetic in nature and, therefore, is not covered under the Employer Benefit Plan.

Dispute

Is the Employer responsible for providing coverage for the Employee's spouse's arm surgery?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing coverage for the Employee's spouse's surgery because it was medically necessary and thus covered under the Employer Benefit Plan.

Position of the Employer: The Employer is not responsible for providing coverage for the Employee's spouse's surgery because the procedure was cosmetic in nature and, therefore, was not medically necessary.

Pertinent Provisions

The Introduction to Article III of the Employer's Plan states in part:

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan.

Article III. A. (3)(p) 9. of the Employer Benefit Plan states:

(p) Services Not Covered

9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are those which are reasonable and necessary for the diagnosis or treatment of an illness. Article III. A. (3)(p) 9. states further that cosmetic surgery is not covered under the Plan unless it is performed to correct surgical scars or to correct results of an accidental injury or birth defects.

The Employee's spouse had surgery to remove excessive skin from her arms. A Funds' medical consultant has reviewed the documentation in this case and advises that there is insufficient information to establish that the surgery was performed for other than cosmetic reasons. Furthermore, he states that there is no indication that the patient's surgery was performed to correct scars, or to correct results of an accidental injury or birth defects. Therefore, the surgery performed on January 21, 1983 is not a covered benefit under the provisions of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not responsible for providing benefits for the Employee's spouse's arm surgery.