
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-059 - 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 diagnostic procedures under the terms of the Employer Benefit Plan.

Background Facts

The Employee was referred by his primary care physician to a pulmonary specialist for evaluation of respiratory symptoms. The specialist performed a complete history and physical examination, and administered a number of diagnostic tests. The specialist billed the Employer's insurance carrier for those services, and the carrier denied payment for all of the services for the reason that they were performed to establish the level of disability in conjunction with the Employee's application for State Black Lung benefits. The carrier subsequently paid the claim, but the Employer states that the payment was made in error and is seeking recoupment from the pulmonary specialist.

Dispute

Is the Employer responsible for payment of benefits for the services provided to the Employee?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing benefits for the services.

Position of the Employer: The Employer is not responsible for providing benefits for the services because they were performed for the purpose of establishing the level of disability in conjunction with the Employee's application for State Black Lung benefits, and not for the purpose of diagnosing pneumoconiosis. Examinations and tests to diagnose a pulmonary impairment are covered, but all other tests to establish the level of disability are excluded under Article 111.A.(11)(a) of the Employer Plan.

Pertinent Provisions

The introduction to Article III of Employer 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.

Article 111.A.(11)(a) of the Employer Plan states in part:

(11) General Exclusions

- (a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:
 - 6. Evaluation procedures, such as x-rays and pulmonary function tests in connection with applications for Black Lung benefits or required by Federal or State Black Lung legislation.

Discussion

Under Article III of the Employer Plan, benefits are provided for services required to diagnose pneumoconiosis. However, once such a diagnosis has been made, benefits are excluded under Article III.A.(11)(a) for additional diagnostic tests performed for the purpose of establishing the level of disability in conjunction with an application for State or Federal Black Lung benefits.

The medical records in this case are limited to the following: the primary care physician's brief notes on office visits over a 30-month period, the results of two of the numerous diagnostic tests (Arterial Blood Gas study and Pulmonary Function Test) administered by the pulmonary specialist and the interpretation by a radiologist of chest x-rays ordered by the pulmonary specialist. The pulmonary specialist's notes, interpretation and clinical summary were not provided, as the Employer was unable to obtain a signed release from the Employee. The limited medical records and other available documentation reveal the following:

- (1) The first recorded complaint of respiratory problems occurred on September 25, 1984 when the 30-year old Employee asked the primary care physician for an examination for Black Lung.
- (2) The primary care physician then referred the Employee to the pulmonary specialist for "evaluation of respiratory symptoms," although, in a subsequent letter to the Employer's insurance carrier, the primary care physician characterized the purpose of the referral as "evaluation of Black Lung".

- (3) The pulmonary specialist ordered chest x-rays, and the radiologist indicated in his interpretation of the chest x-rays, dated October 8, 1984, that there was evidence of pneumoconiosis.
- (4) On October 8, 1984, the pulmonary specialist performed a complete history and physical examination, administered twelve separate diagnostic tests and provided interpretations of the results of those diagnostic tests.
- (5) The Employee subsequently applied for State Black Lung benefits, indicating that pneumoconiosis was first diagnosed by the pulmonary specialist. There is a diagnostic report signed by the Employee's primary care physician which apparently predates the specialist's evaluation. The physician's report was, however, clearly based upon procedures ordered by the specialist on October 8 and not upon the physician's own evaluation, and thus was apparently mistakenly dated.

An independent review of the available medical records was conducted by a recognized expert in the field of respiratory medicine. His conclusions were as follows: (1) the complete history and physical examination, chest x-rays and spirogram (one of the twelve diagnostic tests performed by the pulmonary specialist) should be adequate to diagnose pneumoconiosis; (b) the other eleven diagnostic tests would be appropriate to determine the level of impairment caused by pneumoconiosis; and (c) whether or not all of the other eleven diagnostic tests were appropriate in this case would depend upon the patient's complaints and the results of preliminary screening tests, which were not available.

The available evidence in this case indicates that, although the pulmonary specialist suggested a working diagnosis of Chronic Obstructive Pulmonary Disease, the Employee had no prior history of treatment for respiratory problems and had no complaints beyond those associated with pneumoconiosis, that he in fact suffered from pneumoconiosis, and that a substantial number of the diagnostic tests performed by the specialist are procedures useful in determining the level of impairment due to pneumoconiosis. Because there is no available evidence to indicate any other purpose for these procedures, the Trustees must conclude that these procedures were in fact used to determine the level of impairment due to pneumoconiosis. It appears therefore that under the Employer Benefit Plan, the complete history and physical examination, chest x-rays, spirogram and physician interpretation of the spirogram are covered as being medically necessary and appropriate to the diagnosis of a disease (pneumoconiosis), but that the other eleven diagnostic tests and the related physician interpretations are not covered because they were performed for the purpose of determining the level of disability in connection with an application for Black Lung benefits.

Opinion of Trustees
Resolution of Dispute
Case No. 84-059
Page 4

The Employer is responsible for providing benefits for those individual services which were performed to diagnose pneumoconiosis but is not responsible for providing benefits for those services for which no purpose has been established other than determining the level of impairment due to pneumoconiosis.