

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-081 - January 28, 1986

Board of Trustees: Joseph 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 coverage for podiatric services under the terms of the Employer Benefit Plan.

Background Facts

The Employee is an active miner eligible for health benefits under the Employer Benefit Plan. On March 14, 1985 the Employee received diagnostic and therapeutic care from a podiatrist. This podiatric care was obtained subsequent to a referral by the Employee's attending physician, a family practitioner. The Employer denied payment for the charges relative to this care.

Question or Dispute

Is the Employer responsible for payment of the charges incurred by the Employee as a result of his outpatient podiatric care?

Position of the Parties

Position of the Employee: The Employer is responsible for payment of the charges for the podiatric care the Complainant received as a result of his attending physician's referral.

Position of the Employer: The Employer is not responsible for payment of the charges resulting from the Employee's podiatric care since the Plan provides coverage of only minor or major surgery provided by a podiatrist. According to the Employer, had these same services been rendered by a licensed physician rather than a podiatrist, they would have been considered covered.

Pertinent Provisions

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

(n) Primary Care - Podiatrists' Services

Benefits are provided for the minor surgery rendered by a qualified licensed podiatrist. Routine care of the feet such as trimming of nails, the treatment of corns, bunions (except capsular or bone surgery therefor) and calluses is excluded.

Covered minor surgery includes surgery for ingrown nails and surgery in connection with the treatment of flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet.

Benefits for major surgical procedures rendered by a licensed podiatrist are not provided, except if such surgery is rendered in a hospital.

Q&A 81-43 states:

Under the Podiatrist's Services benefit, benefits are provided for the following services when rendered by a qualified licensed podiatrist:

- (1) Minor surgery
- (2) Major surgery when performed in a hospital after prior approval has been received from the Plan Administrator.

Routine care of the feet such as trimming of nails, treatment of corns, bunions (except capsular or bone and surgery therefor) and calluses is expressly excluded.

Question:

1. Are benefits provided for routine foot care when a Beneficiary has diabetes, peripheral vascular disease or peripheral neuropathy of the foot?
2. Are benefits provided for non-routine podiatric services rendered for treatment of such problems as tendonitis, ruptured Achilles tendon, and gout covered benefits?
3. Are benefits provided for diagnostic studies (i.e., laboratory tests and x-ray) ordered or performed by a qualified licensed podiatrist in conjunction with minor surgery or treatment of a non-routine foot problem?

Answer:

1, 2, & 3. Yes.

Discussion

Article III. A. (3) (n) of the Employer Benefit Plan provides coverage for major and minor surgery performed by a podiatrist but excludes routine care of the feet when provided by a podiatrist.

The Employee sought podiatric care at the request of his attending physician who at the time of his evaluation judged the podiatrist to be the most appropriate specialist for handling the patient's medical requirements.

A Funds' consultant contacted the referring physician to determine the basis for his referral. According to the Employee's attending physician, the Employee had a fungal infection of his nails, had suffered a foot injury not long before his referral to the podiatrist, and in addition, had developed an early paronychia (an infection surrounding the nail of the toe) as well as cellulitis. In his opinion, these conditions were best managed by a podiatrist. In addition the Employee's attending physician noted that the patient had chronic obstructive pulmonary and cardiovascular disease which caused him concern about foot problems in conjunction with these serious illnesses.

The Funds' consultant reviewed the information available in this case. In his opinion the referral by the attending physician was reasonable: the nature of the problem was non-routine. Furthermore, he noted that according to Q&A 81-43, non-routine podiatric services and diagnostic studies are considered covered benefits under the Plan.

Opinion of the Trustees

The Employer is responsible for providing benefits for podiatric care provided to the Employee on March 14, 1985.