
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-123 - March 5, 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 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 payment of health benefits for the prescription drug minoxidil when used in the treatment of hair loss.

Background Facts

On October 22, 1985 a dermatologist diagnosed the Employee as having psoriasis of the scalp and arms and male pattern baldness, both of which had caused hair loss. The physician prescribed a topical compound utilizing the antihypertensive drug minoxidil to treat both the psoriasis and the hair loss.

The Employer denied payment of benefits for the topical minoxidil compound on the grounds that it had been approved by The Food and Drug Administration (FDA) only for the treatment of hypertension, a condition unrelated to the complainant and that, even if it had been approved by the FDA, its use would be cosmetic in nature and therefore not covered.

Question or Dispute

Is the Employer responsible for payment of benefits for the drug minoxidil when used to treat a scalp condition and hair loss due to male pattern baldness and psoriasis?

Position of the Parties

Position of the Employee: The minoxidil compound prescribed by the dermatologist is covered and therefore should be paid by the Employer.

Position of the Employer: Benefits are not payable for the minoxidil compound because the use of minoxidil for the treatment of hair loss has not been approved by the FDA and, even if it had been, such use would be considered cosmetic in nature and therefore not covered by the Employer Benefit Plan.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit 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. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided.

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

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.
27. Any types of services, supplies or treatments not specifically provided by the Plan.

Discussion

Under Article III. A. (II)(a) 24 of the Employer Benefit Plan, benefits are excluded for treatment with new technological medical devices and therapy which is experimental in nature. The drug minoxidil has been approved by the FDA only for use in treating hypertension. Therefore, any other use of the drug, including the treatment of psoriasis or hair loss, would be considered experimental in nature. As an experimental treatment, the use of minoxidil to treat the Employee's psoriasis and hair loss would not be covered under the Employer Benefit Plan.

While treatment of the Employee's psoriasis constitutes treatment of an illness, neither the systemic use of minoxidil nor the topical application of a minoxidil lotion has been determined by the FDA to be effective in the treatment of psoriasis. The use of minoxidil is therefore not covered under the Employer Benefit Plan.

The Employer contends that even if it had been approved by the FDA, the use of minoxidil compound for hair loss would not be covered because such use is for cosmetic purposes. The Trustees need not address this contention given their determination that the use of minoxidil for the purposes described here is in fact experimental and thus not covered under the Plan.

Opinion of the Trustees

Opinion of Trustees
Resolution of Dispute
Case No. 84-123
Page 3

The Employer is not responsible for the payment of benefits for minoxidil compound prescribed to treat the Employee's psoriasis and hair loss.