
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-133 - March 25, 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 benefits for air ambulance services under the Employer Benefit Plan.

Background Facts

The Employee's dependent child, a premature infant with a history of necrotizing enterocolitis, was admitted to Castlevue Hospital in Price, Utah on December 18, 1984 and subsequently transported approximately 150 miles by air ambulance to Primary Children's Medical Center in Salt Lake City, Utah, for needed treatment. On February 14, 1985 the child was admitted to Castlevue Hospital with a diagnosis of meningitis and septic shock and subsequently transported by air ambulance to Primary Children's Medical Center for the required care. Prior approval was neither sought nor granted in either case.

The Employer denied payment of benefits for the air ambulance transportation on the grounds that air ambulance service is not a stated covered benefit under the Plan.

Question or Dispute

Is the Employer responsible for payment of benefits for air ambulance services for the Employee's child?

Position of the Parties

Position of the Complainant: The Employer is responsible for payment of benefits for air ambulance services for the Employee's child.

Position of the Respondent: The Employer is not responsible for payment of benefits for air ambulance services for the Employee's child because those services are not covered under the Plan.

Pertinent Provisions

Article III. A. (7)(e) of the Employer Benefit Plan states:

Ambulance and Other Transportation

Benefits are provided for ambulance transportation to or from a hospital, clinic, medical center, physician's office or skilled nursing care facility when considered medically necessary by a physician.

With prior approval from the Plan Administrator, benefits will also be provided for other transportation subject to the following conditions:

1. If the needed medical care is not available near the Beneficiary's home and the Beneficiary must be taken to an out-of area medical center.
2. If the Beneficiary requires frequent transportation between the Beneficiary's home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment which would otherwise require hospitalization, benefits will be provided for such transportation only when the Beneficiary cannot receive the needed care without such transportation.
3. If the Beneficiary requires an escort during transportation, the attending physician must submit satisfactory evidence as to why the Beneficiary needs an escort.

Discussion

Under Article III. A. (7)(e) of the Employer Benefit Plan, benefits are provided for ambulance transportation when considered medically necessary by a physician.

The Employer argued that prior approval is required for payment of benefits for air ambulance services because the "ambulance transportation" reference in the first paragraph of Article III. A. (7)(e) does not include air ambulance transportation. It is the Employer's position that air ambulance is "other transportation" referred to in the second paragraph of Article III. A. (7)(e) for which prior approval is required. This argument is not supported by the language of the Plan, which states that "benefits are provided for ambulance transportation ... when considered medically necessary." The Plan does not distinguish between air ambulance transportation and ground ambulance transportation.

The Employer also cited ROD Case No. 81-485 to support its position. In that case, however, air ambulance transportation was considered "ambulance transportation" under the provisions of paragraph one of Article III. A. (7)(e), so prior approval was not at issue. Rather the denial of benefits payment for air ambulance services was sustained in that ROD case because the transportation was not considered medically necessary.

The sole issue in this case is the medical necessity of the transportation. The medical facts of the case presented by the child's physician establish that the child was in a life-threatening condition at the time of both transports and required the specialized care available at a pediatric medical center. In light of the child's emergency medical condition, the distance to the Primary Children's Medical Center (150 miles), and the terrain between Price, Utah and Salt Lake City, air ambulance was an appropriate and medically necessary means of transportation for both transports. Prior approval by the Plan Administrator is not required under the terms of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is responsible for the payment of benefits for the air ambulance services rendered the Employee's dependent child.