

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-171 - June 24, 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 personal care articles under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse was hospitalized from November 11, 1985 to November 22, 1985 due to an irregular heart rhythm. Charges incurred during the hospital stay included \$16.34 for an emesis basin, water pitcher, tray, personal belongings bag, bath pan and denture cup. The Employer's insurance carrier denied payment for the items.

Question or Dispute

Is the Employer responsible for payment of the charges for the emesis basin, water pitcher, tray, personal belonging bag, bath pan and denture cup?

Position of the Parties

Position of the Employee: The Employer is responsible for payment of the charges for the emesis basin, water pitcher, tray, personal belongings bag, bath pan and denture cup.

Position of the Employer: The Employer is not responsible for payment of the charges for the emesis basin, water pitcher, tray, personal belongings bag, bath pan and denture cup because they constitute personal comfort items not necessary to the treatment of an illness or injury.

Pertinent Provisions

Article III. A. (1) (a) of the Employer Benefit Plan states:

(1) Inpatient Hospital Benefits

(a) Semi-private room

When a Beneficiary is admitted by a licensed physician (hereinafter "physician") for treatment as an inpatient to an Accredited Hospital (hereinafter "hospital"), benefits will be provided for semi-private room accommodations (including special diets and general nursing care) and all medically necessary services provided by the hospital as set out below for the diagnosis and treatment of the Beneficiary's condition.

Medically necessary services provided in a hospital include the following:

Operating, recovery, and other treatment rooms
Laboratory tests and x-rays
Diagnostic or therapy items and services
Drugs and medication (including take-home drugs which are limited to a 30-day supply)
Radiation therapy
Chemotherapy
Physical therapy
Anesthesia services
Oxygen and its administration
Intravenous injections and solutions
Administration of blood and blood plasma
Blood, if it cannot be replaced by or on behalf of the Beneficiary

Article III. A. (11) (a) 9 of the Employer Benefit Plan states:

(11) General Exclusions

- (a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:
9. Personal services such as barber services, guest meals and cots, telephone or rental of radio or television and personal comfort items not necessary to the treatment of an illness or injury.

Discussion

Article III. A. (1) (a) of the Employer Benefit Plan provides benefits for inpatient semi-private room accommodations, including general nursing care, and all medically necessary services. The Employee's spouse was in a weakened condition and was experiencing dizzy spells as a result of an irregular heart rhythm. The emesis basin, water pitcher, tray, personal belongings bag, bath pan and denture cup were medically necessary for the nursing staff to render her general nursing

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care. In the inpatient setting these items are routinely supplied to patients because they are necessary for basic personal care, not merely to enhance personal comfort. As such, they are not of the same nature as the personal comfort items which are excluded from coverage under Article III. A. (11) (a) 9 of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is responsible for payment of the charges for the emesis basin, water pitcher, tray, personal belongings bag, bath pan and denture cup.