

OPINION OF TRUSTEES

In Re

Complainant: Surviving Spouse
Respondent: Employer
ROD Case No: 84-240 - December 18, 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 coverage for the rental of an Aqua K heating pad system under the terms of the Employer Benefit Plan.

Background Facts

The Employee's surviving spouse's physician prescribed an Aqua K heating pad system for the treatment of bursitis of the arms and severe back pain caused by a bulging vertebral disc.

The Aqua K heating pad system which was supplied to the Employee's surviving spouse on a rental basis delivers therapeutic heat at a constant temperature by circulating heated water through the coils of a plastic pad. The Employer denied charges for the rental of the equipment.

Dispute

Is the Employer responsible for paying benefits for the rental of the Aqua K heating pad system?

Positions of the Parties

Position of the Surviving Spouse: The Employer is responsible for paying charges for the rental of the Aqua K heating pad system.

Position of the Employer: The Employer is not responsible for paying charges for the rental of the Aqua K heating pad system because the equipment is not appropriate for home use since the

patient is neither homebound nor being treated for decubitus ulcers, and it does not meet the guidelines for durable medical equipment because it is not made primarily for a medical purpose.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states:

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.

Article III A (6)(d) of the Employer Benefit Plan states:

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A 81-38 states:

Subject: Medical Equipment and Supplies

Reference: Amended 1980 & 1974 Benefit Plans & Trusts, Article III, Section A (6)(d) and (e), and A (7)(a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:

1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes and other safety bathroom equipment, home dialysis

equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheel chairs.

2. Medical supplies necessary to maintain homebound or bedridden Beneficiaries. Examples of covered supplies are enema supplies, disposable sheets and pads (also called "Chux" or "blue pads"), supplies for home management of open or draining wounds, heating pads (for therapeutic use only) and insulin needles and syringes.
3. Oxygen, as specified in Article III, Section A (6)(e).

B. Under the Other Benefits provision, benefits are provided for the following:

1. Orthopedic and prosthetic devices prescribed by a physician when medically necessary, including items necessary for their effective use. These include, but are not limited to, the following items:
 - prosthetic devices replacing internal or external body parts (other than dental), such as cardiac pacemakers, maxillofacial devices and devices replacing all of the ear or nose, and waste collection and retention devices for incontinent people (e.g., catheters, ostomy bags and supplies)
 - prosthesis following breast removal, including surgical brassieres
 - leg, arm, back and neck braces
 - stump stocking and harnesses (see Article III Section A (7)(a) 5)
 - surgical stockings (see 1981 Contract Q&A #46)
 - orthopedic shoes and corrections (see Article III Section A (7)(a) 7 and 8)
2. Hearing aids (see Article III Section A (7) (d)).

C. Items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits. Examples of such items are: ordinary support (panty) hose, garter belts, disposable paper cups or towels, cotton balls, cotton swabs, bandaids, exercise equipment, and foot pads for bunions or calluses.

Covered items under A and B above are not subject to copayment.

Discussion

Although an item of Durable Medical Equipment may meet the criteria outlined in Q&A 81-38, it is covered under the Employer Benefit Plan only if it is reasonable and necessary for the treatment of an illness or injury. The physician stated that the patient needed the Aqua K Pad for the treatment of bursitis and back pain due to a bulging vertebral disc. The local application of heat is a medically necessary and appropriate measure to relieve the pain caused by these two conditions. However, an ordinary heating pad would serve the same purpose and could be provided at a lower cost. The Employee's surviving spouse's physician stated that a regular heating pad could have been used, but the Aqua K system was preferred because it was less likely to cause burns. Information submitted to the Trustees concerning the Aqua K system indicates that it too has the potential for causing burns if used incorrectly. The reason for preferring the Aqua K system over an ordinary heating pad is not, therefore, sufficient to establish the medical necessity and reasonableness of the Aqua K system rather than an ordinary heating pad.

Opinion of the Trustees

The Employer is not responsible for paying benefits for the Aqua K system.