

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-268 - June 7, 1988

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 physician office visits, hospital emergency room visits and analgesic injections received by the Employee and his spouse.

Background Facts

The Employee and his spouse have obtained an extensive number of analgesic injections starting in April 1985 or earlier. The injections were received during hospital emergency room visits and physician office visits. There were two physicians (referred to hereinafter as "Physician A" and Physician B") involved.

During the 16-month period from April 1985 through July 1986, the Employee received a total of 230 injections -- 122 times during emergency room visits, 12 times during office visits with Physician A, and 96 times during office visits with Physician B. The Employee's spouse received 404 injections -- 108 times during emergency room visits, 53 times during office visits with Physician A, and 243 times during office visits with Physician B; the 404 injections were obtained on 320 different days, as the Employee's spouse obtained injections during two separate visits in the same day or 84 different occasions. The medications injected included stadol, stadol and phenergan, talwin and phenergan, and, on occasion, mepergan. Stadol, talwin, and mepergan have the potential for inducing drug dependence. The Employee and his spouse also received several oral analgesics and tranquilizers, including darvon, valium, and halcion. According to Physician B, the Employee's diagnoses are migraine headaches and recurrent back pain associated with an old back injury; the Employee's spouse's diagnoses are tension headaches, migraine headaches, and acute anxiety reaction. According to Physician A, the Employee's spouse's diagnoses are myofibrositis involving the back muscles and "a very strong psychological overlay."

The Employee obtained injections from Physician A throughout the 16-month period. The Employee's spouse also obtained injections from Physician A throughout the period except for an interruption beginning in March 1986, when the physician stopped providing them, and ending sometime before August 1986. Both the Employee and his spouse also obtained injections from Physician B starting in October 1985 and continuing throughout the period.

The Employer and its insurance carrier both attempted to obtain medical records from the two physicians to determine whether the analgesic injections constituted medically necessary and appropriate treatment for the Employee and his spouse. Physician A responded in March 1986, with respect to the Employee's spouse, that he recognized the problem with the number of injections and that he had terminated them. The physician indicated that there was a "very strong psychological overlay" to the Employee's spouse's complaints, and that he had attempted on several occasions -- without success -- to persuade her to see a psychiatrist. The physician submitted an extract from his office notes on the injections administered to the Employee's spouse; the notes for a visit in February 1986 stated that injections were not "in any sort of treatment program that is going to significantly improve the patient's health" and that "further injections on a routine basis are not warranted." Physician A "terminated" the injections for the Employee's spouse in March 1986 but then resumed them sometime before August 1986. Physician B responded to requests for medical records with brief summaries listing the Employee's and the spouse's diagnoses and stating the physician's intentions to continue the administration of analgesic injections.

The Employer then referred the case to a professional peer review organization, which recommended further assessment of the Employee and his spouse for their pain-related symptoms and possible drug dependence, and a new treatment plan for the same. The Employer has denied payment of benefits for the office visits, emergency room visits, and analgesic injections.

Dispute

Is the Employer responsible for making health benefit payments for the Employee's and his wife's physician office visits, hospital emergency room visits and analgesic injections?

Positions of the Parties

Position of the Employee: The physician office visits, hospital emergency room care and analgesic injections are covered benefits.

Position of the Employer: The physician office visits, hospital emergency room visits and analgesic injections are not covered benefits under the Plan because the numbers of visits and injections have been excessive and have constituted inappropriate utilization of services. The Employee and his wife were not receiving medical treatment for documented illnesses or injuries; therefore, these services are not covered under the Employer Benefit Plan.

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. 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. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of questionable current usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Discussion

Under the Introduction to Article III of the Employer Benefit Plan, covered services are limited to those which are medically necessary, reasonable and appropriate. The Employer denied benefits for physician office visits, hospital emergency room visits and injections on the basis that these treatments were neither medically necessary nor appropriate. In ROD 81-553 (copy enclosed herein) the Trustees addressed the question of benefit coverage when neither the medical necessity nor the appropriateness of the treatment was established. In that case, the Trustees concluded that the Employer, by virtue of having obtained independent opinions from a consulting physician and a peer review organization, had applied reasonable procedures which established that the services in question were not medically necessary and appropriate, and therefore were not covered.

The Employer in this case has obtained an independent opinion from a peer review organization indicating that (1) the frequency of office visits, emergency room visits and injections was excessive; (2) the services were unwarranted in light of the documentation provided; and (3) because of possible chemical dependence, the patients' symptoms should be evaluated further and other treatment options explored. A Funds' medical consultant reviewed the case and agreed with these conclusions. He states that both patients have a pain syndrome that is either physical or psychological or a combination of both; there appears to be an over-utilization of services for their syndromes. Based on the independent reviews of the evidence in this case, the Trustees concur with the advice and conclude that the Employer has applied reasonable procedures which establish that the services in question are neither medically necessary nor appropriate. Therefore, the Employer is not responsible for the payment of benefits for the physician office visits,

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hospital emergency room visits and injections received by the Employee and his wife which do not constitute medically necessary and appropriate treatment. Inasmuch as there may be a problem of chemical dependence in this case, the Employee and his spouse should be encouraged to seek appropriate treatment within the limits established in Article III. A. (7)(f) of the Plan.

Opinion of the Trustees

The Employer is not responsible for the payment of benefits for the physician office visits, hospital emergency room visits and injections received by the Employee and his spouse which do not constitute medically necessary and appropriate treatment.