

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-296 - March 2, 1987

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald R. 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 podiatric surgery under the Employer Benefit Plan.

Background Facts

The Employee's wife was being seen by a podiatrist for a variety of foot disorders including flatfootedness, displacement of both great toes and painful heel spurs on both feet. On October 29, 1985, the podiatrist treated the heel spur on her right foot by excising plantar fascia (tissue near the sole of the foot). This surgical procedure was done by the podiatrist in his office. The Employer denied payment of benefits for the procedure.

Dispute

Is the Employer responsible for providing benefits for the outpatient podiatric surgery performed on the Employee's spouse?

Position of the Parties

Position of the Employee: The Employer is responsible for providing benefits for the surgery performed in the podiatrist's office as the surgery is a covered benefit.

Position of the Employer: The Employer is not responsible for providing benefits for the surgery performed in the podiatrist's office because it is a major surgical procedure which, under the terms of Article III. A. (3)(n), must be performed in a hospital in order to be covered, and because prior approval was not obtained.

Pertinent Provisions

Article III. A. (3)(n) of the Employer Benefit Plan states:

(n) Primary Care - Podiatrists' Services

Benefits are provided for minor surgery rendered by a qualified licensed podiatrist. Routine care of the feet such as trimming of nails, the treatment of corns, bunions (except capsular or bone surgery therefore) and calluses is excluded.

Covered minor surgery includes surgery for ingrown nails and surgery in connection with the treatment of flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet.

Benefits for major surgical procedures rendered by a licensed podiatrist are not provided, except if such surgery is rendered in a hospital.

Discussion

Under Article III. A. (3)(n) of the Employer Benefit Plan, benefits are provided for minor surgery rendered by a qualified licensed podiatrist. There is no requirement that minor surgery be performed in a hospital or that prior approval be obtained from the Plan Administrator.

The Employee's spouse underwent surgery to remedy a painful heel spur on her right foot. The procedure involved the removal of tissue near the sole of the foot. This surgery was performed on an outpatient basis by a podiatrist in his office. The Employer's rationale for denying this claim is that this procedure constitutes major surgery. However, a Funds' medical consultant has reviewed the case and advised that this type of surgery is generally considered to be a minor surgical procedure for which an outpatient setting is appropriate.

This procedure constitutes minor surgery and was performed by a qualified licensed podiatrist for the treatment of symptomatic, non-routine complaints of the feet. The Plan provisions regarding coverage for podiatry services have therefore been satisfied.

Opinion of the Trustees

The Employer is responsible for the provision of benefits for the outpatient podiatric surgery performed on the Employee's spouse on October 29, 1985.