
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-343 - April 7, 1987

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 nursing home services under the terms of the Employer Benefit Plan.

Background Facts

The Employee's dependent mother was admitted to a nursing home facility on August 30, 1982, where she remained until December 1986. The facility is not licensed under the Federal Medicare program. The patient's diagnosis was general senility, coronary insufficiency, hypertensive cardiovascular disease, arteriosclerotic coronary vascular disease, psychoneurosis with depression and microcytic anemia. On November 24, 1986, the patient's physician reported that the patient suffered a slight stroke; however, that event did not alter the level of the care she was receiving.

The care required by the patient in the facility consisted of assistance in eating, bathing, dressing, turning, transfers, administration of oral medication, other routine care required by an incontinent patient and treatment of small decubitus ulcers with application of a topical antibiotic ointment.

The Employer initially provided coverage for benefits for this care for the Employee's dependent mother at the nursing home. However, after closer examination of the level of care required, on December 27, 1982, the Complainant was notified by letter that no more benefits would be provided after the date of the letter; benefits for the custodial care were denied after December 27, 1982. As indicated by the physician's report of September 19, 1986, the Employee's dependent mother continued to require custodial care from the date of her admission until the date of his report.

Dispute

Is the Employer responsible for charges related to the nursing home services rendered the Employee's dependent mother from December 27, 1982 until her death in December 1986?

Position of Parties

Position of the Employee: The Employer is responsible for the reimbursement charges incurred related to nursing home services rendered the Employee's dependent mother because her nursing home care was medically necessary.

Position of the Employer: The Employer is not responsible for payment of the charges incurred in the nursing home facility from December 27, 1982 through 1986 because the Employee's dependent mother's confinement was for custodial care which is specifically excluded from coverage under the terms of the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (5) (a) and (b) provide:

(5) Skilled Nursing Care and Extended Care Units

(a) Skilled Nursing Care Facility

Upon determination by the attending physician that confinement in a licensed skilled nursing care facility* is medically necessary, to the extent that benefits are not available from Medicare or other State or Federal programs, benefits will be provided for:

1. skilled nursing care provided by or under the supervision of a registered nurse;
2. room and board;
3. physical, occupational, inhalation and speech therapy, either provided or arranged for by the facility;
4. medical social services;
5. drugs, immunizations, supplies, appliances, and equipment ordinarily furnished by the facility for the care and treatment of inpatients;
6. medical services, including services provided by interns or residents in an approved, hospital-run training program, as well as other diagnostic and therapeutic services provided by the hospital; and
7. other health services usually provided by skilled nursing care facilities.

* Skilled nursing care facility is limited to a skilled nursing care facility which is licensed and approved by Federal Medicare.

The Plan will not pay for services in a nursing care facility:

1. that is not licensed or approved in accordance with state laws or regulations;
2. unless the service is provided by or under the direct supervision of licensed nursing personnel and under the general direction of a physician in order to achieve the medically desired results.

Exclusions:

Telephone, T.V., radio, visitor's meals, private room or private nursing (unless necessary to preserve life), custodial care, services not usually provided in a skilled nursing facility.

(b) Extended Care Units

Benefits are provided for up to two weeks of specialized medical services and daily treatments by licensed personnel in extended care units. When medically necessary, benefits may be provided for a longer period of time, subject to approval from the Plan Administrator.

The Plan will not pay for services in an extended care unit unless, in the case of a Medicare patient, such extended care has prior approval of Medicare.

Exclusions:

1. Services, drugs or other items which are not covered for hospital inpatients;
2. Custodial care.

Discussion

Under Article III. A. (5) (a) of the Employer Benefit Plan, benefits are provided for skilled nursing care only if the nursing care is rendered in a licensed skilled nursing care facility which is approved under the federal Medicare program, and if skilled nursing care is required by the patient. Benefits for custodial care are specifically excluded.

After providing coverage for the initial period from August 30, 1982 until December 27, 1982, the Employer denied benefits for the Employee's dependent mother's nursing home care because it was custodial in nature. A review of recent medical reports and nursing notes submitted by the

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nursing home indicates that the patient neither required nor received skilled nursing care, even toward the end of her stay. The Plan Administrator has stated that the initial coverage, though provided in error, is not an issue, as was explained in the December 27, 1982 letter from the carrier. Inasmuch as custodial care is not a covered benefit under the Plan, the care received is not subject to reimbursement.

Opinion of the Trustees

The Employer is not responsible for reimbursement for custodial care received by the Employee's dependent mother in a nursing home because the conditions of her treatment did not meet the requirements of Article III. A. (5) (a) and (b) of the Employer Benefit Plan.