

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-363 - October 1, 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 benefits for gastric bypass surgery under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse requested prior approval from the Employer for coverage of a proposed gastric bypass. The Employee's spouse's physician stated that she is 5' 5" and weighs 288 lbs., and that she has attempted to lose weight through Weight Watcher's, TOPS, spas, diets, pills, shots, hypnosis, medical treatment, an intestinal bypass, and a gastric stapling without success. He reported that she has borderline hypertension, diabetes, heart problems, water retention problems, poor circulation, shortness of breath, arthritis in her knees and feet, fatigue, depression and irregular periods. The physician has recommended a gastric bypass.

The Employer sent the Employee's spouse's medical records to a professional peer review organization to determine the medical necessity and appropriateness of the proposed gastric bypass. Their response indicated that a previous intestinal bypass had to be taken down for complications and the gastric stapling performed in 1984 had "stretched," rendering it ineffective; the Institute reported that the hospitalization for the gastric stapling was complicated by the patient's failure to comply with medical advice. In addition, there was no documentation of medical problems secondary to obesity; the Institute's reviewers were unable to find evidence of uncontrolled hypertension, alveolar hypoventilation, diabetes mellitus or cardiac problems in her records.

Based on the review of the case by the peer review organization, and on the Employee's spouse's history of complications with the intestinal bypass and an unsuccessful gastric stapling, the Employer's medical review staff concluded that the medical complications which make this type of surgery medically necessary are not present and that the surgery would be of questionable appropriateness. The Employer, therefore, refused to grant prior approval for the gastric bypass.

Dispute

Is the Employer responsible for providing coverage for the Employee's spouse's proposed gastric bypass?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing coverage for the Employee's spouse's gastric bypass because it is a covered benefit under the Employer Benefit Plan.

Position of the Employer: The Employer is not responsible for providing coverage for the Employee's spouse's gastric bypass. There is no documentation that she fulfills the criteria for pathological obesity stipulated by the Plan, and the medical necessity and appropriateness of the procedure have not been established.

Pertinent Provisions

The Introduction to Article III of the Employer's Plan states in part:

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. (11)(a) 25 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:

25. Charges for treatment of obesity, except for pathological, morbid forms of severe obesity (200% or more of desirable weight) when prior approval is obtained from the Plan Administrator.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are those which are reasonable and necessary for the treatment of an illness. Article III. A. (11) (a) 25 of the Employer Benefit Plan excludes coverage for the treatment of obesity unless the beneficiary has a pathological, morbid form of severe obesity, and prior approval is obtained from the Plan Administrator.

Neither requirement for coverage has been met in this case. First, it is undisputed that the Plan Administrator refused to grant prior approval under the particular circumstances involved. Second, the required condition of "pathological, morbid form of severe obesity" is not present.

A Funds' medical consultant reviewed the case and agreed with the conclusions of the peer review organization and the Employer's medical review staff. While the Employee's spouse is over 200% of ideal body weight and therefore satisfies the Plan definition of severe obesity, she does not exhibit the other medical complications (e.g., hypertension, diabetes mellitus, or cardiac problems) which would make surgery medically necessary. In addition, the appropriateness of a third surgical intervention is questionable, since the two previous surgical interventions, the intestinal bypass and the gastric stapling, were treatment failures; the intestinal bypass had to be released due to complications (e.g., gastro-intestinal bleeding and kidney stone formation) and the gastric stapling stretched, rendering it non-effective.

Opinion of the Trustees

The Employer is not responsible for providing benefits for the Employee's spouse's proposed surgery (gastric bypass) for obesity.