

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-408 - August 12, 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 prescription drugs under the terms of the Employer Benefit Plan.

Background Facts

The Employee's child has cystic fibrosis and is unable to tolerate the fat present in human milk; therefore, the child needs a special infant formula called "Portagen." Although this formula was prescribed for the child by his physician, it does not require a prescription in order to be purchased. The Employer has denied prescription drug benefits for the Employee's child's formula.

Dispute

Is the Employer responsible for the provision of prescription drug benefits for the Employee's child's special infant formula?

Positions of the Parties

Position of the Employee: The Employer is responsible for the provision of prescription drug benefits for the Employee's child's special infant formula Portagen because it was prescribed by a physician. The child needs this formula because he has cystic fibrosis and is intolerant of human milk.

Position of the Employer: The Employer is not responsible for providing prescription drug benefits for the Employee's child's special infant formula. Although it was prescribed by a physician, it does not require a prescription in order to be purchased.

Pertinent Provisions

Article III. A. (4)(a) of the Employer Benefit Plan states in part:

(4) Prescription Drugs

(a) Benefits Provided

Benefits are provided for insulin and prescription drugs (only those drugs which by Federal or State law require a prescription) dispensed by a licensed pharmacist and prescribed by a (i) physician ...

Discussion

Article III. A. (4)(a) of the Employer Benefit Plan excludes coverage for medication that can be obtained over the counter without a prescription. The Trustees have previously concluded in Resolutions of Dispute 126 and 227 (copies enclosed herein) that benefits are not provided under the Employer Benefit Plan for infant formula which does not require a prescription. In this case, although the Portagen formula needed by the Employee's child was prescribed by a physician because the child has cystic fibrosis, it did not require a prescription for purchase. Therefore, benefits are not provided for this formula under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not responsible for the provision of benefits for the infant formula Portagen as it is available without a prescription.