
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-413 - December 2, 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 for co-payments to physicians for office visits and for immunizations under the terms of the Employer Benefit Plan.

Background Facts

The Employee and his dependents incurred an outstanding balance for services rendered by the family's physician over a six-year period from 1980 through 1986. In April 1986, the physician sued the Employee to collect the balance due. Although the Employee maintains that the physician's attorney informed his attorney that the Employer agreed to pay the outstanding charges, such charges have not been paid.

The Employer states that in May 1986 the Employee asked to be held harmless for the charges which his physician was attempting to collect. The Employer states that through contacts with its claims administrators and the Employee's physician's office, it determined that all claims for covered services had been submitted and reimbursed in accordance with the terms of the Employer Benefit Plan. The Employer has submitted documentation which indicates that the outstanding charges are \$585.00 for physician co-payments and \$165.00 for non-covered services. The latter charge represents immunizations (diphtheria, tetanus, polio, measles, mumps and rubella) provided in 1983 for the Employee's 14-year-old daughter. The Employer states that the medical necessity of the Employee's daughter's immunizations has not been documented, and therefore, the immunizations are not covered under the Employer Benefit Plan. The Employer contacted the Employee and explained that, because the outstanding balance was a result of his failure to pay co-payments and non-covered expenses in a timely manner, he could not be held harmless. In addition, some of the services in question were rendered at a time before there were hold harmless provisions in the Employer Benefit Plan.

Dispute

Is the Employer responsible for the payment of the Employee's outstanding charges for medical services?

Positions of the Parties

Position of the Employee: The Employer is responsible for payment of the outstanding charges for medical services.

Position of the Employer: The Employer is not responsible for payment of charges representing co-payments because they are the Employee's responsibility. The Employer is also not responsible for payment of charges for immunizations, as they are not covered under the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (3)(o) 2. of the Employer Benefit Plan states:

- (o) Primary Medical Care - Miscellaneous
 - 2. Benefits are provided for immunizations, allergy desensitization, injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness and other screening and diagnostic procedures when medically necessary.

Article III. A. (8) of the Employer Benefit Plan states in part:

(8) Co-Payments

Certain benefits provided in this Plan shall be subject to the co-payments set forth below and such co-payments shall be the responsibility of the Beneficiary.

For purpose of this paragraph (8), the working group shall be deemed to be Beneficiaries who are described in Article II A and C(3) and their eligible dependents. The non-working group shall be deemed to be Beneficiaries who are described in Article II B, C(1), C(2) and E and their eligible dependents.

Co-Payments for covered Health Benefits are established as follows:

Benefit

Co-Payment

(a) Physician services as an out-patient as set forth in section A(2) and physician visits in con-

Working Group-- \$7.50 per visit up to a maximum of \$150 per 12-month period(*) per family.

nection with the benefits set forth in section A(3), paragraph (c) but

only for pre- and post-natal visits if the physician charges separately for such visits in addition to the charge for delivery, and paragraphs (g) through (m), paragraph (n) except inpatient surgery, paragraph (o) and section A(7) paragraph (f).

(b) Prescription drugs and insulin, as set forth in section A(4) and take-home drugs following a hospital confinement as set forth in section (A)(1)(a).

Nonworking Group-- \$5 per visit

up to a maximum of \$100 per 12-month period(*) per family.

\$5 per prescription or refill up to \$50 maximum per 12-month period (*) per family. Note: For purposes of this co-payment provision, a prescription or refill shall be deemed to be each 30 days (or fraction thereof) supply.

*The 12-month periods shall begin on the following dates: March 27, 1984; March 27, 1985; March 27, 1986; and March 27, 1987.

Discussion

Article III. A. (8) of the Employer Benefit Plan provides that outpatient physician services are subject to co-payments which are the responsibility of the Employee. Therefore, the Employee is responsible for payment of the outstanding charges which represent co-payments, up to the yearly maximum of \$150.00, pursuant to Article III. A. (8) of the Plan.

Article III. A. (3)(o) 2. of the Employer Benefit Plan provides benefits for immunizations when medically necessary. At the time of service for the immunizations the patient was approximately fourteen years old. At that age it is not customary to receive childhood immunizations. The charges submitted are accompanied by no explanation for the inoculations. Inasmuch as the medical necessity of the Employee's daughter's immunizations has not been established, the Employer is not responsible for the charges associated with the immunizations.

Opinion of the Trustees

Opinion of Trustees
Resolution of Dispute
Case No. 84-413
Page 4

The Employee is responsible for payment of the charges which represent co-payments pursuant to Article III. A. (8) of the Employer Benefit Plan. The Employer is not responsible for payment of the charges for the Employee's daughter's immunizations.