
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-433 - December 18, 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 health benefits coverage for durable medical equipment under the terms of the Employer Benefit Plan.

Background Facts

The Employee has rheumatoid arthritis with frequent acute exacerbations and degenerative joint disease with sciatic neuralgia. His physician prescribed a home whirlpool device for hydrotherapy to prevent gelling of the affected joints. According to the physician, without the in-home whirlpool, the Employee would have to receive whirlpool treatments at a registered physical therapist's office. Such treatments would be impractical, however, due to the expense involved and the distance the Employee would need to travel for treatment (25 miles).

The Employer denied health benefits coverage of the whirlpool on the basis that it could not be considered a piece of durable medical equipment because it could be useful to a person in the absence of an illness or injury and because it is an item of a convenience nature and does not require professional judgment, recommendations or instructions to purchase or use.

Dispute

Is the Employer responsible for payment of benefits for the Employee's home whirlpool?

Positions of the Parties

Position of the Employee: The Employer is responsible for payment of benefits for the Employee's home whirlpool because it was prescribed by a physician.

Position of the Employer: The Employer is not responsible for the payment of benefits for the Employee's whirlpool because it is useful to a person in the absence of an illness or injury and because it is a convenience item which does not require professional judgment, recommendations or instructions to purchase or use.

Pertinent Provisions

Article III. A. (6) (d) of the 1984 Employer Benefit Plan provides:

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A 81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trusts, Article III, Sections A (6) (d) and (e), and A (7) (a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:

1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes, and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheel chairs.

C. Items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits. Examples of such items are: ordinary support (panty) hose, garter belts, disposable paper cups or towels, cotton balls, cotton swabs, bandaids, exercise equipment, and foot pads for bunions or calluses.

Discussion

Under Article III. A. (6) (d) of the Employer Benefit Plan, benefits are provided for medical equipment suitable for home use when determined by a physician to be medically necessary. The type of medical equipment which is covered is further defined by Q&A 81-38, which states that covered medical equipment is that which (a) can withstand use; (b) is primarily and customarily used to serve a medical purpose; (c) generally is not useful to a person in the absence of an illness or injury; and (d) is appropriate for use in the home. Q&A 81-38 further stipulates that items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits.

For medical equipment to be covered by the Plan, it must not only be deemed medically necessary by a physician but also meet the definition of medical equipment which may be covered. The Employee's provider has stated that the Employee needs the home whirlpool to prevent "gelling" of his affected joints. However, the home whirlpool is a piece of equipment that is useful to people in the absence of an illness or injury.

A Funds' medical consultant has reviewed the pertinent data and advised that the whirlpool prescribed for the Employee is not, by itself, a therapeutic piece of medical equipment for the medical problems described; rather, it is a convenience item. Therefore, the whirlpool does not meet the definition of medical equipment which may be covered under the Plan and the Employer is not responsible for payment of benefits for the prescribed whirlpool.

Opinion of the Trustees

The Employer is not responsible for payment of benefits for the home whirlpool prescribed for the Employee.