
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-434 - December 10, 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 an abdominal lipectomy.

Background Facts

The Pensioner has a sagging lower abdomen which causes discomfort due to itching, sweating and chafing. He is described as being fairly obese. Two surgeons have advised that a lipectomy of the abdominal wall will improve his situation. In justification of the surgery, one physician stated that the patient has chronic lung disease, and his coughing and straining worsens his discomfort in his lower abdominal area.

On March 27, 1987, the Pensioner's plastic surgeon submitted a request for prior approval of surgery to be performed on the Complainant. The Employer's insurance carrier advised the physician on April 20, 1987 that it had insufficient information on which to determine coverage. The surgery was not performed due to the inability of the patient to receive assurance that it would be a covered benefit.

Dispute

Is the Employer responsible for providing coverage for the Pensioner's proposed lipectomy?

Positions of the Parties

Position of the Pensioner: The Employer is responsible for providing coverage for the Pensioner's lipectomy because it is medically necessary and thus covered under the Employer Benefit Plan.

Position of the Employer: The Employer is not responsible for providing coverage for the Pensioner's lipectomy. There is no documentation that he 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.

The Pensioner sought prior approval which was not granted because insufficient information was submitted. Second, the required condition of coverage, a "pathological, morbid form of severe obesity," is not present.

A Funds' medical consultant reviewed the case and advised that there is no evidence on file indicating the patient weighs 200% of his desirable weight. Further, he states there is no documentation to support the medical necessity of a procedure of this magnitude and there is no evidence that conservative methods such as weight loss have been tried. Therefore, the Trustees find the Employer is not required to grant prior approval for coverage of the Pensioner's proposed surgery.

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The Employer is not responsible for providing benefits for the Pensioner's proposed surgery as its medical necessity has not been established.