
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-436 - 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 surgical services under the terms of the Employer Benefit Plan.

Background Facts

The Employee's 30-year-old hydrocephalic daughter underwent surgery for the destruction of an intraventricular (brain) cyst. During the same operative session the surgeon also replaced the ventriculoperitoneal shunt that drained fluid from her brain into her abdomen. The surgeon charged \$3,850.00 for the cyst destruction and \$1,800.00 for the shunt replacement. Initially, the Employer denied \$350.00 of the surgeon's charges for the destruction of the cyst because it considered these charges to be above the reasonable and customary fee for this procedure. However, the Employer eventually paid in full the charge for the cyst destruction. The Employer determined that the shunt replacement was an incidental procedure and issued payment at 50% of the surgeon's charge. The Employee contends that the surgeon's charge for the shunt replacement should be paid in full.

Dispute

Is the Employer responsible for full payment of the surgeon's fee for replacement of the Employee's daughter's shunt?

Positions of the Parties

Position of the Employee: The Employer is responsible for full payment of the surgeon's fee charges for replacement of the Employee's daughter's shunt.

Position of the Employer: The Employer is not responsible for full payment of the surgeon's fee for the replacement of the Employee's daughter's shunt because the procedure was incidental surgery and, as such, is payable at 50% of the physician's normal charge had he performed only the shunt replacement.

Pertinent Provisions

Article III A. (3)(a) of the Employer Benefit Plan states that:

(3) Physicians' Services and Other Primary Care

(a) Surgical Benefits

Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedures (including the usual and necessary post-operative care) for the treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

When surgical services consist of necessary major surgery (primary) and the physician performs surgery additional-to the primary surgery (incidental surgery), benefits payment for the incidental surgery will be provided but at a rate 50% lower than the physician's normal charge had he performed only the incidental surgery.

Discussion

Article III. A. (3)(a) of the Employer Benefit Plan states that when a physician performs incidental surgery in addition to primary surgery, benefits for the incidental surgery are provided at a rate 50% lower than the physician's normal charge had he performed only the incidental surgery. Q&A 81-91 (copy enclosed herein) defines incidental surgery as an operative procedure performed subsequent to a primary surgical procedure, during the same operative session, through the same incision and in the same operative field.

The shunt replacement was performed subsequent to the cyst destruction, during the same operative session and in the same operative field. However, it does not meet the definition of incidental surgery because it was not performed through the same incision as the cyst destruction. Therefore, the shunt replacement is a separate surgical procedure covered under Article III. A. (3) (a) of the Employer Benefit Plan and is not subject to the fifty percent reduction in payment.

Opinion of the Trustees

The Employer is responsible for full payment of the surgeon's fee for replacement of the Employee's daughter's shunt.

Opinion of Trustees
Resolution of Dispute
Case No. 84-436
Page 3