
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-510 - March 16, 1988

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 breast reconstruction under the terms of the Employer Benefit Plan.

Background Facts

The Employee's 31-year-old spouse has had moderately severe bilateral fibrocystic disease since the age of 18. As a result, she experiences periodic pain, burning and tenderness in both breasts. A biopsy of the right breast left a difference in the size of the breasts. Physician's records indicate that there is no history of cancer in her family. Due to the continuing nature of the disease, the need for periodic mammograms and her fear that the condition would develop into cancer, the Employee's spouse, on referral from her physician, sought treatment from a specialist in plastic and reconstructive surgery. The specialist recommended a bilateral subcutaneous mastectomy with immediate reconstruction mammoplasty.

The Employer's records indicate that subsequent to the plastic surgeon's examination, the Employee's spouse was evaluated by a physician at a cancer clinic. The clinic physician recommended that the Employee's spouse take Vitamin E supplements, have a mammogram at age 35, and again at age 40, and have yearly breast examinations. Another physician also recommended that she should decrease her intake of salt, caffeine and fats.

The Employer submitted the Employee's spouse's medical documents to a physician review board for evaluation. The board listed the indications for subcutaneous mastectomy as 1) progressive, severe fibrocystic disease, 2) strong family history of breast cancer and 3) cancer of the breast.

The Employer denied approval for the proposed surgery and states that a more conservative approach seems appropriate.

Dispute

Is the Employer responsible for the provision of benefits for the proposed reconstructive breast surgery for the Employee's spouse?

Positions of the Parties

Position of the Employee: The Employer should grant prior approval for the proposed reconstructive breast surgery for the Employee's spouse.

Position of the Respondent: The Employer is not responsible for the prior approval of benefits for the proposed reconstructive breast surgery for the Employee's spouse because it is not medically necessary.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit 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. (3)(f) of the Employer Benefit Plan states:

(f) Surgical Services Limitations

Benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Such surgical procedures include, but are not limited to, the following:

Plastic surgery, including mammoplasty
Reduction mammoplasty
Intestinal bypass for obesity
Cerebellar implants
Dorsal stimulator implants
Prosthesis for cleft palate if not covered by crippled children services
Organ transplants

Discussion

Under Article III. of the Employer Benefit Plan covered services are those which are reasonable and necessary for the diagnosis or treatment of an illness and which are given at the appropriate level of care. Under Article III. A. (3)(f) benefits are not provided for certain surgical services

without prior approval of the Plan Administrator. The Employer has denied approval for the Employee's spouse's proposed surgery.

The surgeon who examined the Employee's spouse on referral from her physician has recommended bilateral subcutaneous mastectomies with immediate reconstruction using implants. A Funds' medical consultant has reviewed the evidence in this case and has noted that other medical reports on file recommend a more conservative therapy in this case at this time. The consultant advises that the medical data in this case are insufficient to establish the medical necessity of the proposed surgery. Accordingly, the Trustees conclude that the Employer's denial of prior approval for the proposed surgery is reasonable under the provisions of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not responsible for providing prior approval for health benefits for the Employee's spouse's proposed breast surgery.