

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-537 - March 29, 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 benefits for an electric breast pump under the terms of the Employer Benefit Plan.

Background Facts

The Employee's child was born prematurely at 33 weeks gestation. Due to the infant's prematurity, it was necessary for his hospital stay to be extended twelve days beyond the mother's discharge date. The pediatrician recommended that the infant be fed breast milk obtained by using a breast pump during the infant's hospitalization and until the infant developed the strength and ability to nurse; there is no evidence that he specified an electric pump rather than a manual one. The mother rented an electric breast pump.

The Employer denied health benefits coverage for the rental of an electric breast pump. The Employer has stated that because a breast pump is not primarily and customarily used to serve a medical purpose and because it is useful to a person in the absence of illness or injury, it does not meet the definition of durable medical equipment (DME) which may be covered under the Employer Benefit Plan.

Dispute

Is the Employer responsible for paying benefits for the rental of the electric breast pump?

Positions of the Parties

Position of the Employee: The Employer is responsible for paying benefits for the rental of the electric breast pump because it was medically necessary.

Position of the Employer: The Employer is not responsible for paying benefits for the rental of an electric breast pump because it is not primarily and customarily used to serve a medical purpose and because it is useful in the absence of an illness or injury.

Pertinent Provisions

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

(d) Medical Equipment

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 and A #81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans and 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

Article III. A. (6) (d) of the Employer Benefit Plan provides benefits for medical equipment suitable for home use when determined to be medically necessary by a physician. Q&A 81-38 states that covered equipment includes, "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." An electric breast pump meets these requirements. Whether the equipment in question is medically necessary for the treatment of an illness or injury is determined by the particular circumstances of each case.

In this case the pediatrician determined that human milk was medically advantageous to the premature infant. Since the child was unable to nurse, the milk had to be collected and fed to the child with a bottle. The medical necessity for collecting the breast milk is not in question. However, the milk could have been collected by use of a less costly manual pump or by manual expression. Because there are no medical reasons in this case which make an electric pump necessary, it is not a covered benefit.

### Opinion of the Trustees

The Employer is not responsible for providing benefits for the rental of the electric breast pump.