

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-561 - July 7, 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 nursing services under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse was admitted to the intermediate care unit of a licensed skilled nursing facility on July 13, 1987, where she remained until March 31, 1988, when she was transferred to another facility. The skilled nursing unit of the facility is approved under the Federal Medicare program.

The Pensioner's spouse's medical history includes multiple cerebrovascular accidents, diabetes, hypertension, peptic ulcer disease, congestive obstructive pulmonary disease, chronic heart failure and dementia. The care required by the patient in the facility consisted of assistance with eating, bathing, dressing, ambulation, administration of oral medication, monitoring of vital signs and her general condition and routine care required by an incontinent patient. The Pensioner states he is unable to provide the medically necessary care she needs. The patient's physicians determined that her care could be provided in an intermediate care facility. Medicare payment was denied for the Pensioner's spouse's stay in the nursing home because Medicare does not provide benefits for care in an intermediate care facility.

The Pensioner then submitted the claim for coverage under the Employer Benefit Plan. The Employer denied benefits for the Pensioner's spouse's stay in the nursing home from July 13, 1987 to March 31, 1988 because the Pensioner's spouse received custodial care which is specifically excluded from coverage under the Employer Benefit Plan.

The Pensioner asks whether the Employer is responsible for payment of the charges related to nursing home services rendered to his spouse from July 13, 1987 to March 31, 1988.

Dispute

Is the Employer responsible for payment of the charges related to nursing home services rendered the Pensioner's spouse from July 13, 1987 to March 31, 1988?

Positions of the Parties

Position of the Pensioner: The Employer is responsible for payment of charges related to nursing home services rendered to the Pensioner's spouse from July 13, 1987 to March 31, 1988, because the Pensioner cannot provide the medically necessary care she needs.

Position of the Employer: The Employer is not responsible for payment of the charges related to nursing home services rendered to the Pensioner's spouse from July 13, 1987 to March 31, 1988 because the Pensioner's spouse did not require skilled nursing care.

Pertinent Provisions

Article III. A. (5) of the Employer Benefit Plan states:

(5) Skilled Nursing Care and Extended Care Units

(a) Skilled Nursing Care Facility

Upon determination by the attending physician that confinement in a licensed skilled nursing care facility is medically necessary, to the extent that benefits are not available from Medicare or other State or Federal programs, benefits will be provided for:

1. skilled nursing care provided by or under the supervision of a registered nurse;
 2. room and board;
 3. physical, occupational, inhalation and speech therapy, either provided or arranged for by the facility;
 4. medical social services;
 5. drugs, immunizations, supplies, appliance, and equipment ordinarily furnished by the facility for the care and treatment of inpatients;
 6. medical services, including services provided by interns or residents in an approved, hospital-run training program, as well as other diagnostic and therapeutic services provided by the hospital; and
 7. other health services usually provided by skilled nursing care facilities.
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* Skilled nursing care facility is limited to a skilled nursing care facility which is licensed and approved by Federal Medicare.

The Plan will not pay for services in a nursing care facility:

1. that is not licensed or approved in accordance with state laws or regulations;
2. unless the service is provided by or under the direct supervision of licensed nursing personnel and under the general direction of a physician in order to achieve the medically desired results.

Exclusions:

Telephone, T.V., radio, visitor's meals, private room or private nursing (unless necessary to preserve life), custodial care, services not usually provided in a skilled nursing facility.

(b) Extended Care Units

Benefits are provided for up to two weeks of specialized medical services and daily treatments by licensed personnel in extended care units. When medically necessary, benefits may be provided for a longer period of time, subject to approval from the Plan Administrator.

The Plan will not pay for services in an extended care unit unless in the case of a Medicare patient, such extended care has prior approval of Medicare.

Exclusions:

1. Services, drugs or other items which are not covered for hospital inpatients;
2. Custodial care.

Discussion

Under Article III. A. (5) of the Employer Benefit Plan, benefits are provided for skilled nursing care only if the nursing care is rendered in a licensed skilled nursing care facility which is approved under the federal Medicare program and if skilled nursing care is required by the patient. Benefits are provided only for care at the skilled level.

Although the facility in which the Pensioner's spouse was confined is a licensed skilled nursing facility approved by Medicare, the Employee's spouse received all of her care in the intermediate care unit of this facility; she did not receive care in a skilled care unit. Intermediate level care is not a covered benefit under the Employer Benefit Plan. Therefore, the Employer is not responsible for providing benefits for the services rendered the Pensioner's spouse in the nursing home.

Opinion of the Trustees

The Employer is not responsible for reimbursement for care received by the Pensioner's spouse in the intermediate care unit of a skilled nursing facility from July 13, 1987 to March 31, 1988, because such treatment does not meet the requirements of Article III. A. (5) for coverage under the Employer Benefit Plan.