

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-633 - July 12, 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 gastric bypass surgery under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse requested prior approval from the Employer for coverage of a proposed gastric bypass. The Employee's spouse's gynecologist stated that she is 5' 6" and weighs 310 lbs. and that she has attempted to lose weight through diets and exercise without success. The gynecologist reported that she has symptoms of arthritis, borderline hypertension, hypoglycemia, premenstrual syndrome, irregular periods and depression. The gynecologist referred her to a general surgeon who recommended a gastric bypass.

The Employer refused to grant prior approval for the gastric bypass because although the Employee's spouse is morbidly obese, the medical complications which would make this type of surgery medically necessary are not present in her case.

Dispute

Is the Employer responsible for providing coverage for the Employee's spouse's proposed gastric bypass?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing coverage for the Employee's spouse's gastric bypass because it is medically necessary.

Position of the Employer: The Employer is not responsible for providing coverage for the Employee's spouse's gastric bypass. There is no documentation that she fulfills the criteria for pathologic obesity stipulated by the Plan, and the medical necessity of the procedure has not been established.

Pertinent Provisions

The Introduction to Article III of the Employer's Benefit Plan states in part:

Covered benefits 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 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.

1981 Contract Q&A #81-10 states:

Subject: Surgical Treatment of Obesity

References: Amended 1950 & 1974 Benefit Plans & Trusts, Article III, Sections A (3) (f) and A (11) (a) 25

Question:

What conditions must be satisfied for the Plan Administrator to approve gastric or intestinal bypass surgery for the treatment of obesity?

Answer:

Benefits are only provided for these two surgical procedures when all of the following conditions are satisfied:

1. The Beneficiary has a pathological, morbid form of severe obesity (two or more times the desirable weight);

2. other, more conservative therapies have been tried and proved unsuccessful ; and
3. prior approval has been 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. and Q&A #81-10 of the Employer Benefit Plan exclude coverage for the treatment of obesity unless the beneficiary has a pathological, morbid form of severe obesity, has tried other more conservative therapies which proved unsuccessful and prior approval is obtained from the Plan Administrator.

A Fund's medical consultant reviewed the case and advised that while the Employee's spouse is over 200% of ideal body weight and therefore satisfies the Plan definition of severe obesity, there is inadequate evidence to show that more conservative measures for weight loss have been tried in earnest and that such measures proved unsuccessful. Furthermore, he advises that there is insufficient proof that the Employee's spouse has other medical complications (e.g., hypertension, diabetes mellitus, or cardiac problems) which would make surgery medically necessary. Because the requirements for coverage have not been satisfied, the Employer's denial of prior approval for the Employee's spouse's gastric bypass is reasonable.

#### Opinion of the Trustees

The Employer is not responsible for providing coverage for the Employee's spouse's proposed gastric bypass.