
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-044 - December 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 Mire 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 ultraviolet-B light box for an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Employee suffers from severe generalized psoriasis, which has been treated by different dermatologists for several years. His condition appears to respond well to treatment with ultraviolet-B light combined with certain topical drugs. The dermatologist who has been the most successful in controlling the Employee's psoriasis contends that daily treatments of ultraviolet-B light will be required for some indefinite period of time in order to control his psoriasis. She states that continued use of such treatment at home will decrease the frequency of hospital admissions that would ordinarily be required for treating the recurrences that are associated with this disease process.

Currently, the Employee can only receive two light box treatments per week without missing time from work because it takes him over two hours to drive to his physician's office for the treatments. The Employee's physician states that the Employee had to be hospitalized in August 1988 for two weeks to control his psoriasis, which had worsened because he could not get daily light box treatments. The Employee contends that he cannot get light box treatments at a facility near his home since, in order to do so, he would have to be seen by one of that facility's physicians, and he wants to remain with his current physician, who has been able to treat him successfully.

The Employer has denied payment for the light box on the basis that the light box does not meet the requirements of durable medical equipment as defined by Article III. A. (6)(d) of the Employer Benefit Plan because it could be used for other purposes such as tanning and storage.

The Employer further states that the Employee could receive light box treatments at a facility near his home.

Dispute

Is the Employer responsible for the provision of benefits for the purchase or rental of a light box for home use?

Positions of the Parties

Position of the Employee: The Employer is responsible for the provision of benefits for the purchase or rental of a home light box because it is medically necessary to treat the Employee's psoriasis.

Position of the Employer: The Employer is not responsible for the provision of benefits for the purchase or rental of a home light box because it does not meet the requirements for durable medical equipment as defined under the Employer Benefit Plan and alternate forms of treatment are available to the Employee.

Pertinent Provisions

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

(6) Home Health Services and Equipment

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be necessary by a physician.

Q&A 81-38 states:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trust,
Article III. Section 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." First, the light box can withstand repeated use. Second, an ultraviolet-B light box is primarily and customarily used for a medical purpose; extensive modification of the basic design would be required to change its purpose. The ultraviolet-B light box cannot be adapted to a tanning booth. Third, the ultraviolet light rays of the light box would not be useful for persons who do not have illnesses such as severe generalized psoriasis. The issue in this case is the appropriateness of the light box for home use.

A Funds' medical consultant has reviewed the material presented in this file and advised that the use of a light box should be supervised by a physician whenever possible because the amount of ultraviolet-B light produced can cause serious burns. He further advised that the device is appropriate for home use only when alternative sites are not available. In this case, Funds' staff has learned that the Employee can use a light box at a facility near his home while receiving treatment from his current physician. Therefore, in the Employee's case, the purchase or rental of the light box for home use is inappropriate because an alternative treatment site is available.

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The Employer is not responsible for the purchase or rental of a light box for the Employee in this case where an alternative treatment site is available.