
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-063 - 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 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 coverage for histocompatibility testing of potential donors for a bone marrow transplant under the terms of the Employer Benefit Plan.

Background Facts

The Employee is a 27-year-old male who was diagnosed with paroxysmal nocturnal hemoglobinuria, a condition associated with ineffective blood cell formation. The specialist who is treating the Employee referred him to the West Virginia University Department of Medicine for an evaluation. The evaluation confirmed the diagnosis, and it was recommended that a bone marrow transplant be considered. The specialist referred the Employee to the Johns Hopkins University Bone Marrow Transplant Program where he has been accepted as a candidate for a bone marrow transplant when the procedure is warranted. In order for the Employee to be considered for a transplant, eight of his relatives (his mother and seven siblings) have been tested to determine whether they would be suitable donors of bone marrow. One sister has been identified as a compatible donor from this group.

The Employer has indicated that services rendered to the Employee in connection with the bone marrow transplant will be covered, subject to Plan provisions and limitations. The Employer asks whether the tests performed on the Employee's family members are covered benefits under the Employer Benefit Plan.

Dispute

Is the Employer responsible for providing benefits for the histocompatibility testing of the Employee's relatives?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing benefits for the histocompatibility testing of the Employee's relatives because such testing is necessary before a bone marrow transplant can be performed.

Position of the Employer: The Employer asks whether the testing of the Employee's relatives to identify a donor for the Employee's bone marrow transplant is a covered benefit under the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (3)(j) of the Employer Benefit Plan states in pertinent part:

(3) Physicians' Services and Other Primary Care

(j) Laboratory Tests and X-rays

Benefits will be provided for laboratory tests and x-rays performed in a licensed laboratory when ordered by a physician for diagnosis or treatment of a definite condition, illness or injury.

Article III. A. (10)(f) of the Employer Benefit Plan states in pertinent part:

(10) General Provisions

(f) Non-Duplication

The health benefits provided under this Plan are subject to a non-duplication provision as follows:

1. Benefits will be reduced by benefits provided under any other group plan, including a plan of another Employer signatory to the Wage Agreement, if the other plan:
 - (i) does not include a coordination of benefits or non-duplication provision, or
 - (ii) includes a coordination of benefits or non-duplication provision and is the primary plan as compared to this Plan.

Discussion

Under Article III. A. (3)(j) of the Employer Benefit Plan, benefits are provided for laboratory tests and x-rays performed in a licensed laboratory when ordered by a physician for the diagnosis or treatment of a definite condition, illness or injury. The Employee in this case has been evaluated and is considered a candidate for a bone marrow transplant. Before the transplant can be performed, histocompatibility testing must be performed to identify compatible donors. Thus, the histocompatibility testing of the Employee's relatives is medically necessary as part of the treatment of the Employee's illness. As such, it is a covered benefit under Article III. A. (3)(j) of the Employer Benefit Plan.

Article III. A. (10)(f) of the Employer Benefit Plan states that benefits provided under the Plan will be reduced by benefits provided under any other group plan. To the extent that those tested are covered under another group plan, benefits provided under the Employer Benefit Plan are subject to the non-duplication provision of the Plan.

Opinion of the Trustees

The Employer is responsible for providing benefits for the histocompatibility testing necessary to identify a donor for the Employee's bone marrow transplant.