
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-066 - August 22, 1989

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 home health care services for a Pensioner's spouse under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse was hospitalized from June 15, 1987 through July 8, 1987 because of a myocardial infarction (heart attack) and pulmonary edema (fluid in the lungs). During the hospitalization, she was started on daily injections of insulin. Her physician ordered home health services for her, which began the day after her hospital discharge, July 9, 1987. The home health services consisted of weekly visits by registered nurses for eleven weeks followed by monthly visits for seven months, ending March 14, 1988. The nurses performed venipuncture services (drew blood for laboratory tests), monitored the Pensioner's spouse's cardiorespiratory, diabetic and nutrition statuses, and instructed her concerning her symptoms, her medication regime (including reinforcement of her insulin injection technique) and her diabetic diet.

The Employer states that it paid benefits for four of the home health visits in error but is not requesting repayment for them. The Employer denied benefits for the remaining home health visits (fourteen in all) because the initial nursing assessment, written by a nurse from the home health agency, stated that the Pensioner's spouse could perform her activities of daily living unassisted and because the assessment did not indicate that her neuromuscular tolerance was adversely affected.

Dispute

Is the Employer required to provide benefits for the home health care services rendered to the Pensioner's spouse from July 9, 1987 through March 14, 1988?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the home health care services rendered to the Pensioner's spouse from July 9, 1987 through March 14, 1988, because such services were medically necessary.

Position of the Employer: The Employer is not required to provide benefits for the Pensioner's spouse's home health care services from July 9, 1987 through March 14, 1988 because the Pensioner's spouse was not homebound.

Pertinent Provisions

Article III. A. (6) of the Employer Benefit Plan states in pertinent part:

(6) Home Health Services & Equipment

(a) General Provisions

Benefits are provided for home health services, including nursing visits by registered nurses and home health aides, and various kinds of rehabilitation therapy, subject to the following conditions and approval of the Plan Administrator.

1. The Beneficiary must be under the care of a physician.
2. The Beneficiary's medical condition must require skilled nursing care, physical therapy, or speech therapy at least once in a 60-day period.
3. The physician must initiate a treatment plan and specify a diagnosis, the Beneficiary's functional limitations and the type and frequency of skilled services to be rendered.
4. The Beneficiary must be confined to his home. The services must be provided by a certified home health agency.

(c) Skilled Nursing

Benefits are provided for skilled nursing care rendered by a registered nurse as a home health service when a Beneficiary's condition has not stabilized and a physician concludes that the Beneficiary must be carefully evaluated and observed by a registered nurse. The Plan Administrator may request an evaluation visit to the Beneficiary's home.

Discussion

Under Article III. A. (6) (a) and (c) of the Employer Benefit Plan, benefits are provided for home health services, including visits by registered nurses, under certain conditions and subject to the approval of the Plan Administrator. The special nature of home health care services, and the need

to monitor services on a continuing basis, dictate that approval should follow rather than precede the provision of services. This has been the Funds' practice under the 1950 Benefit Plan.

Article III. A. (6) (a) 4. provides that home health services are not covered unless the beneficiary must be confined to his home. The Employer contends that the Pensioner's spouse was not homebound because the initial nursing assessment indicated that she performed "activities of daily living independently" and because the nursing assessment did not indicate any neuromuscular disorders that would cause her to be confined to her home.

The definition of homebound for the Medicare program and accepted as the standard definition in the home health care industry states that an individual is generally considered to be confined to his home if his medical condition restricts his ability to leave home except with the assistance of another person or with the aid of a supportive device, or if his medical condition is such that leaving the home is medically contraindicated. The individual does not have to be bedridden to be considered confined to his home: an individual may be homebound if leaving home requires considerable, taxing effort by the individual and if absences from the home are infrequent, of relatively short duration, or due to the need to receive medical treatment.

The nursing assessment form relied upon by the Employer clearly indicates that the Pensioner's spouse relies upon her husband and child for transportation, shopping, and housework. Later treatment notes indicate that the Pensioner's spouse suffered functional limitations in ambulation, endurance and respiration. Moreover, other evidence establishes that her absences from home during the relevant period were infrequent and due to the need to receive medical treatment. The evidence establishes that the Pensioner's spouse was confined to her home within the meaning of Article III. A. (6)(a) 4.

The evidence submitted, including plans of treatment, nursing notes, and laboratory test results, also establishes that: (1) the Pensioner's spouse was under the care of a physician; (2) her medical condition required skilled nursing care at least once in a 60-day period; (3) her physician initiated an appropriate treatment plan; (4) the services were provided by a certified home health agency; (5) the services provided constituted skilled nursing care; and (6) the spouse's condition had not stabilized and her physician determined that she should be evaluated and observed by a nurse. Accordingly, the skilled nursing services provided to the Pensioner's spouse are covered by Article III. A. (6) (a) and (c) of the Plan.

Opinion of the Trustees

The Employer is required to provide benefits for the home health care services rendered to the Pensioner's spouse from July 9, 1987 through March 14, 1988.