

OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 88-089 - October 25, 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 for home health services for a Pensioner's spouse under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse, who has asthma and diabetes, developed an abdominal abscess from multiple insulin injections to the abdomen. On December 17, 1987, she was evaluated in the emergency room of a local hospital where the abscess was incised and drained. On the same day, her daughter-in-law was killed by an automobile.

The emergency room staff referred the Pensioner's spouse to the hospital's Medicare-certified home health agency for follow-up care of the abscess wound. The 0.5 cm wound had to be packed daily. The Pensioner's spouse received 15 nursing visits between December 19, 1987 and January 14, 1988. During the first week, a registered nurse visited daily to perform the wound care and to instruct the Pensioner's spouse in the procedure. When the Pensioner's spouse was able to pack and dress the wound herself, the visit frequency was decreased to two or three times a week for reinforcement of the instructions and observation of the wound. The nurses also monitored the patient's cardiopulmonary and diabetic status, reviewed the medication regime and provided support during the Pensioner's spouse's grieving process. A nurse drew blood for laboratory work on the December 28, 1987 visit.

The Employer contends that skilled nursing care was not medically necessary for treatment of the Pensioner's spouse's abscess, that the treatment plan was not initiated by a physician and that the patient's homebound status was questionable. The Employer also states that prior approval was not obtained for the home health services. For these reasons, the Employer denied benefits for the home health visits rendered to the Pensioner's spouse.

Dispute

Is the Employer required to provide benefits for the home health services rendered to the Pensioner's spouse from December 19, 1987 through January 14, 1988?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the home health services rendered to the Pensioner's spouse from December 19, 1987 through January 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 services from December 19, 1987 through January 14, 1988, because skilled nursing care was not medically necessary, a treatment plan was not initiated by a physician, the patient's homebound status was questionable, and the prior approval of the Plan Administrator was not obtained.

Pertinent Provisions

Article III. A. (6)(a) and (c) of the Employer Benefit Plan state:

(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) 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 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. Under Article III. A. (6)(a) and (c), benefits are provided for home visits by a registered nurse when the physician initiates a treatment plan, the beneficiary's condition requires skilled nursing care, and the beneficiary is confined to his home.

The Employer asserts that in this case the home health services were initiated by the beneficiary. However, the Home Health Certification and Plan of Treatment form (HCFA-485) signed by the emergency room physician indicates that oral orders were issued to the home health agency on the day before the first home health visit.

The Employer contends that the Pensioner's spouse's abdominal abscess was accessible and skilled nursing care was not medically necessary for the daily packing and dressing of the wound. Skilled nursing services are those services which must be performed by or under the direct supervision of a licensed nurse to achieve the medically desired result and to assure the safety of the patient. A Funds' medical consultant has reviewed the evidence submitted including the records of the emergency room visit on December 17, 1987 and the plans of treatment, nursing notes and medication schedules pertaining to the home health services rendered from December 19, 1987 through January 14, 1988. The consultant states that, in his opinion, the daily care of the Pensioner's spouse's abdominal abscess did not require skilled nursing care following the initial instructions by the emergency room physician and nurse on December 17, 1987. The consultant noted the difficult social situation caused by the accidental death of the patient's daughter-in-law who had cared for the patient's wound. The consultant is of the opinion that if the patient, because of her grief reaction, had required further instruction or assistance to care for the abscess, she could have obtained it as an outpatient from her physician or the local hospital.

The Employer contends that the Pensioner's spouse's homebound status is questionable because she made trips to the emergency room on December 17, 1987 and on December 18, 1987, and because the treatment plan indicates that her ambulation was "unsteady" and she was permitted to be "up as tolerated." 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

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treatment. The medical consultant advises that the documentation provided in this case does not establish that the patient's medical condition limited her activity to the extent that she was confined to her home within the meaning of Article III. A. (6) (a) 4. of the Employer Benefit Plan.

Inasmuch as the Pensioner's spouse did not require skilled nursing care and was not confined to her home during the period in question, the Employer is not required to provide benefits for the home health care services rendered to the Pensioner's spouse from December 19, 1987 through January 14, 1988.

Opinion of the Trustees

The Employer is not required to provide benefits for the home health care services rendered to the Pensioner's spouse from December 19, 1987 through January 14, 1988.