
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-099 - November 20, 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 provisions of health benefits coverage for prescription drugs under the terms of the Employer Benefit Plan.

Background Facts

The Employer has Implemented a "Drug Alert" program to assist individuals where there may be a potential for unnecessary duplication of medication, harmful drug interactions, inappropriate drug therapy, or drug abuse. Because of an unusually high utilization of prescription drugs, the Employer's insurance carrier reviewed all prescription drug charges incurred by the Pensioner and his spouse from February 6, 1988 through January 2, 1989. When this dispute was filed, the Employer had denied benefits for numerous prescription drugs obtained by both the Pensioner and his spouse. After further consideration, the Employer provided additional benefits for prescription drugs obtained by the Pensioner's spouse. The Employer has, however, denied benefits for ten prescription drug charges incurred by the Pensioner's spouse. Benefits were denied for seven of those prescriptions because each was filled while an ample supply of an equivalent drug from the same drug class was on hand. The Employer also denied benefits for three refills of prescriptions that were over six months old, stating that a new prescription is required every six months. The representative for the Pensioner has notified the Funds that the prescription drug charges incurred by the Pensioner are no longer in dispute.

Dispute

Is the Employer required to provide benefits for the Pensioner's spouse's prescription drug charges?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the Pensioner's spouse's prescription drug charges because they are a covered benefit under the Employer Benefit Plan.

Position of the Employer: The Employer is not required to provide benefits for the Pensioner's spouse's prescription drug charges because the prescriptions duplicated drugs being prescribed from the same drug class or were refills of prescriptions that were over six months old.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states:

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is covered under this Plan. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or questionable current usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III. A. (4)(a) of the Employer Benefit Plan states in pertinent part:

(4) Prescription Drugs

(a) Benefits Provided

Benefits are provided for insulin and prescription drugs (only those drugs which by Federal or State law require a prescription) dispensed by a licensed pharmacist and prescribed by a (i) physician for treatment or control of an illness or nonoccupational accident or (ii) licensed dentist for treatment following the performance of those oral surgical services set forth in (3)(e). The initial amount dispensed shall not exceed a 30 day supply. Any original prescription may be refilled for up to six months as directed by the attending physician. The first such refill may be for an amount up to, but no more than, a 60 day supply. The second such refill may be for an amount up to, but no more than, a 90 day supply. Benefits for refills beyond the initial six months require a new prescription by the attending physician.

Discussion

The Introduction to Article III of the Employer Benefit Plan provides that covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under the Employer Benefit Plan. Under Article III. A. (4) (a) of the Employer Benefit Plan, benefits are provided for insulin and prescription drugs (only those drugs which by Federal or State law require a prescription) dispensed by licensed pharmacist and prescribed by a physician for treatment or control of an illness or a nonoccupational accident. In addition, Article III. A. 4(a) states that benefits for refills beyond the initial six months require a new prescription by the attending physician.

A physician has diagnosed the Employee's spouse with chronic pancreatitis, peptic ulcer disease, hiatal hernia and anxiety depressive syndrome. The Employer denied benefits for prescription drugs in seven instances (five prescriptions for tranquilizers and two prescriptions for antidepressants) because the Employee's spouse was evidently using multiple tranquilizers and antidepressants in combinations which are not endorsed by the manufacturer, and because such usage of drugs was determined to be inappropriate and not medically necessary by a pharmacist consultant. A Funds' medical consultant has reviewed the information submitted in this case and advised that, according to the record of prescriptions filled, the patient was in possession of an adequate amount of tranquilizers (all belonging to the drug class benzodiazepine) when she filled the five prescriptions for additional tranquilizers. The consultant advises that the use of more than one tranquilizer concurrently can have an additive sedative effect which can be potentially addictive and harmful to the patient. The medical consultant is of the opinion that the five prescriptions for tranquilizers were not medically reasonable and necessary for the treatment of the Pensioner's spouse's illness. Therefore, the Employer is not required to provide benefits for the five prescriptions for tranquilizers.

With regard to the prescriptions for antidepressants, the medical consultant advises that both prescriptions in question were appropriate for this patient. In both instances, the patient was in possession of a tricyclic antidepressant when a prescription was filled for another antidepressant that is unrelated to the tricyclic antidepressant in chemical composition. Because these antidepressants belong to two different drug classes and were prescribed in low dosages, their additive effect would be therapeutic for this patient. The medical consultant is of opinion that both prescriptions for antidepressants were medically reasonable and necessary for the treatment of the Pensioner's spouse's illness. Therefore, the Employer is required to provide benefits for those medically necessary prescription drugs.

The Employer has also denied benefits for refills of prescriptions, one of which was originally prescribed on December 3, 1987 and refilled on September 8, 1988 and December 23, 1988, and another that was prescribed on December 3, 1987 and refilled on September 9, 1988. Because the refills were not obtained within six months of the date of the original prescription, the Employer is not required to provide benefits under the terms of Article III. A. (4)(a) of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is required to provide benefits for the prescribed antidepressant obtained by the Employee's spouse on August 6, 1988 and September 6, 1988. The Employer is not required to provide benefits for the prescription drug charges incurred on August 6, 1988, September 6, 1988, and October 1, 1388 for tranquilizers that were determined not medically necessary. The Employer also not required to provide benefits for refills of the Pensioner's spouse prescriptions that were over six months old.