
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-134 - September 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 inpatient hospitalization under the terms of the Employer Benefit Plan.

Background Facts

On March 3, 1988, the Pensioner's spouse sought treatment at her doctor's office complaining of sudden severe pain in her lower back. The physician diagnosed the Pensioner's spouse's condition as acute low back strain. The patient also has a history of hypertension, hyperlipidemia (the presence of excess fat in the blood) and diabetes mellitus. She was hospitalized from March 3, 1988 until March 8, 1988. While hospitalized, she was on bed rest and received pain medication, physical therapy, moist heat treatments, ultrasound treatments, blood work and x-rays.

The Employer provided coverage for the physician's charges but denied coverage for the hospital charges.

Dispute

Is the Employer required to pay the hospital charges incurred during the Pensioner's spouse's hospitalization from March 3, 1988 to March 8, 1988? If not, must the Employer hold the Pensioner harmless?

Positions of the Parties

Position of the Pensioner: The Employer is required to pay the hospital charges because the Pensioner's spouse's hospitalization from March 3, 1988 to March 8, 1988 was medically necessary.

Position of the Employer: The Employer is not required to pay the hospital charges because the Pensioner's spouse was hospitalized for a course of treatment that could have been performed on an outpatient basis; and, therefore, hospitalization was not medically necessary. Furthermore, the Employer is not required to hold the Pensioner harmless because the hold harmless provisions only apply to excessive or unreasonable charges and not to charges for inappropriate treatment.

Pertinent Provisions

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

Article III - Benefits

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 given at the appropriate level of care, or are otherwise 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 medically reasonable or necessary or 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 of 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. (1) (a) of the Employer Benefit Plan states:

(1) Inpatient Hospital Benefits

(a) Semi-Private room

When a Beneficiary is admitted by a licensed physician (hereinafter "physician") for treatment as an inpatient to an Accredited Hospital (hereinafter "hospital"), benefits will be provided for semi-private room accommodations (including special diets and general nursing care) and all medically necessary services provided by the hospital as set out below for the diagnosis and treatment of the Beneficiary's condition.

Medically necessary services provided in a hospital include the following:

Operating, recovery, and other treatment rooms

Laboratory tests and x-rays
Diagnostic or therapy items and services
Drugs and medication (including take-home drugs which are limited to a 30-day supply)
Radiation therapy
Chemotherapy
Physical therapy
Anesthesia services
Oxygen and its administration
Intravenous injections and solutions
Administration of blood and blood plasma
Blood, if it cannot be replaced by or on behalf of the Beneficiary

Article III. A. (10)(g)3. of the Employer Benefit Plan states:

(g) Explanation of Benefits (EOB). Cost Containment and Hold Harmless

3. The Employer and the UMWA agree that excessive charges and escalating health costs are a joint problem requiring a mutual effort for solution. In any case in which a provider attempts to collect excessive charges or charges for services not medically necessary, as defined in the Plan, from a Beneficiary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the provider. Whether the Plan Administrator or his agent negotiates a resolution of a matter or defends a legal action on a Beneficiary's behalf, the Beneficiary shall not be responsible for any legal fees, settlements, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided under the Plan. The Plan Administrator or his agent shall have sole control over the conduct of the defense, including the determination of whether the claim should be settled or an adverse determination should be appealed.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that 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 given at the appropriate level of care. The Introduction states that the fact that a 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 Plan. Article III. A. (1) (a) of the Plan states that if a Beneficiary is admitted to a hospital by a physician, benefits will be provided for room accommodations and medically necessary services provided by a hospital for the diagnosis and treatment of the Beneficiary's condition.

A Funds' medical consultant has reviewed the information submitted in this file and advised that the history and physical examination, x-rays and admitting physician's orders do not indicate a

low back syndrome of sufficient severity or with pathological findings that would require hospitalization. According to the consultant, the progress notes dated March 4 and March 5, 1988 show rapid improvements in the patient's condition with conservative treatment. The consultant is of the opinion that the care, which consisted of bed rest, hot packs and medication, could have been effectively and appropriately administered on an outpatient basis. The consultant advises that without evidence of more severe pain or significant physical findings, the hospitalization in this instance was not medically necessary. Accordingly, the Trustees find that the Employer's denial of the hospital charges incurred by the Pensioner's spouse is reasonable under the terms of the Employer Benefit Plan.

Article III. A. (10)(g) 3. of the Employer Benefit Plan provides that the Plan Administrator shall attempt to negotiate with or defend a Beneficiary against providers who seek to collect charges for services not medically necessary. Whether the Employer negotiates a resolution or defends a legal action, the Beneficiary is not responsible for any expenses in connection with such charges, but may be liable for services that are not provided under the Plan. This is known as the Plan's "Hold Harmless" provision.

The Employer contends that it is not required to hold the Pensioner harmless in this instance. The hold harmless provision applies when services are not medically necessary. The Introduction to Article III states that services which are not reasonable and necessary shall include procedures which can be performed with equal efficiency at a lower level of care. It has been determined that the patient's treatment in this case could have been effectively and appropriately administered on an outpatient basis. Therefore, hospitalization in this instance was not medically reasonable and necessary, and the Employer must hold the Pensioner harmless.

Opinion of the Trustees

The Employer is not required to pay the hospital charges for the Pensioner's spouse's hospitalization that was not medically necessary. The Employer should implement its hold harmless procedures as required under the provisions of Article III. A. (10)(g) 3. of the Employer Benefit Plan.