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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-154 - January 24, 1990

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 health benefits coverage for the purchase of a wig under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse experienced hair loss as a result of chemotherapy treatments for cancer. The Employer has refused to provide benefits for the purchase of a wig.

Dispute

Is the Employer required to provide benefits for the purchase of the Employee's spouse's wig?

Positions of the Parties

Position of the Employee: The Employer is required to pay for the Employee's spouse's wig because it serves a medical, rather than a cosmetic, purpose. Furthermore, because the Employee's spouse's hair loss is the direct result of chemotherapy to treat cancer, the wig should be covered as part of the treatment of that illness.

Position of the Employer: The Employee's spouse's wig is a non-covered expense under the Employer Benefit Plan because it is not necessary to the treatment of the Employee's spouse's cancer.

Pertinent Provisions

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

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....

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

(3) Physicians' Services and Other Primary Care

(k) Radiation and Chemotherapy Benefits

...

Benefits are provided for treatment of malignant diseases by chemotherapy provided in or out of the hospital when prescribed and billed by a physician.

Article III. A. (11)(a) 9. and 27. of the Employer Benefit Plan state:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

...

9. Personal services such as barber services, guest meals and cots, telephone or rental of radio or television and personal comfort items not necessary to the treatment of an illness or injury.

...

27. Any types of services, supplies or treatments not specifically provided by the Plan.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services shall be limited to those services that are reasonable and necessary for the diagnosis or treatment of an

illness or injury and that are given at the appropriate level of care, or are otherwise provided for in the Plan. Article III. A. (3)(k) of the Plan states that benefits are provided for treatment of malignant diseases by chemotherapy provided in or out of the hospital when prescribed and billed by a physician. Article III. A. (11)(a) 9. of the Plan states that benefits are not provided for personal services and personal comfort items not necessary to the treatment of an illness or injury. In addition, Article III. A. (11)(a) 27. states that benefits are not provided for any types of services, supplies or treatments not specifically provided for by the Plan.

In this case, the Employee's spouse experienced hair loss as a result of chemotherapy treatments for cancer. Benefits were provided for the chemotherapy; however, the Employer has refused to provide benefits for the purchase of a wig. Q&A 81-73 (copy enclosed herein), which interprets the provisions of Article III. A. (11)(a) 9. and 27. as they apply to this issue, states that benefits are not provided for wigs necessary because of hair loss caused by disease or chemotherapy treatment as such wigs are considered cosmetic or personal comfort items not necessary to the treatment of an illness or injury. Because benefits are not specifically provided by the Plan for the purchase of wigs and because a wig is not considered necessary to the treatment of the Employee's spouse's cancer, the Employer is not required to provide benefits for the purchase of the Employee's spouse's wig.

Opinion of the Trustee

The Employer is not required to provide benefits for the purchase of the Employee's spouse's wig.