
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-184 - January 19, 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 the provision of benefits for travel expenses under the terms of the Employer Benefit Plan.

Background Facts

The Employee, a resident of Mannington, West Virginia, underwent surgery to remove a ureteral (kidney) stone. The surgery was unsuccessful. His physician referred him to the University of Virginia Medical Center in Charlottesville, Virginia (approximately 250 miles from his residence) for extracorporeal shock wave lithotripsy (ESWL) treatment to crush the stone into small pieces that could be eliminated in the patient's urine. The Employee's physician submitted information concerning the Employee's condition and proposed treatment at the University of Virginia Medical Center to the Employer's insurance carrier. The carrier's Medical Review Team sent the Employee a notice indicating that his hospital admission had been pre-certified.

The Employee states that prior to his trip to Charlottesville he orally contacted three of the Employer's representatives to find out what he needed to do to be reimbursed for his travel expenses. According to the Employee, those representatives were not familiar with reimbursement procedures, but one of them advised the Employee to go to Charlottesville and then submit an expense voucher upon his return "to see if any of the expenses would be reimbursed." The Employee submitted a claim for reimbursement of travel expenses after he returned from Charlottesville.

The Employer provided benefits for the Employee's ESWL treatment and hospitalization at the University of Virginia Medical Center on January 12, 1989. The Employer denied benefits for travel expenses because the Employee did not obtain prior approval from the Plan Administrator as required under Article III. A. (7)(e) of the Employer Benefit Plan and because the ESWL treatment the Employee received at the University of Virginia Medical Center was available at other facilities closer to the Employee's residence. The Employer maintains that the Employee

did not discuss reimbursement of travel expenses with any company representative at any time prior to his trip.

Dispute

Is the Employer required to pay travel expenses related to the Employee's treatment at an out-of-area hospital?

Positions of the Parties

Position of the Employee: The Employer is required to pay the Employee's travel expenses because prior to his trip he attempted to determine if his expenses could be reimbursed, and he complied with the instructions he received from the Employer's representative. Furthermore, the Employee's physician had recommended that he receive treatment at the University of Virginia Medical Center.

Position of the Employer: The Employer is not required to provide payment for the Employee's travel expenses because the Employee did not obtain prior approval from the Plan Administrator, as required under the Employer Benefit Plan, and because the treatment he received at the University of Virginia was available at other facilities closer to the Employee's residence.

Pertinent Provisions

Article III. A. (7)(e) of the Employer Benefit Plan states, in pertinent part:

(7) Other Benefits

(e) Ambulance and Other Transportation

Benefits are provided for ambulance transportation to or from a hospital, clinic, medical center, physician's office, or skilled nursing care facility, when considered medically necessary by a physician.

With prior approval from the Plan Administrator, benefits will also be provided for other transportation subject to the following conditions:

1. If the needed medical care is not available near the Beneficiary's home and the Beneficiary must be taken to an out-of-area medical center.

Discussion

Article. III. A. (7)(e) of the Employer Benefit Plan provides benefits, subject to prior approval, for transportation to an out-of-area medical center for medically necessary care that is not available near the Beneficiary's home.

With regard to the issue of prior approval, the Employee states that he orally contacted the Employer's representatives to learn what he had to do to be reimbursed for travel expenses and that he was told to submit an expense voucher upon his return from Charlottesville, Virginia. The Employee contends that this advice constitutes tacit approval for reimbursement of his travel expenses. The Employee further contends that his expenses should be reimbursed because, in his doctor's opinion, the University of Virginia Medical Center was the best facility for his treatment; the Plan does not require that a beneficiary seek treatment at the closest "out-of-area" facility; and he was not informed prior to his trip that the treatment was available at a closer facility. The requirement under Article III. A. (7)(e) to obtain prior approval from the Plan Administrator has been established to address issues such as these.

The Summary Plan Description and Benefit Plan booklet distributed by the Employer to all Employees clearly states in Article III. A. (7)(e) that prior approval must be obtained from the Plan Administrator for reimbursement of expenses for travel to an out-of-area medical center. The Employer has submitted a copy of a notice posted at the Employee's worksite which lists the types of claims that require prior approval from the Plan Administrator, including travel expenses. The notice also explains the procedure to be followed in requesting prior approval. Employees are advised to submit a written statement from their physician concerning the proposed treatment and its medical necessity to the Supervisor of Industrial and Employee Relations. After conferring with the corporate medical department and the Plan Administrator, the Supervisor then notifies the Employee whether prior approval has been granted. While the Employee maintains that he requested information from company representatives concerning reimbursement of his travel expenses, the Employer claims that the subject of travel expenses was not discussed with any company representatives at any time prior to the Employee's treatment. Notwithstanding this factual dispute, there is no evidence that the Employee sought prior approval by following the Employer's published procedures.

The Employer also denied payment of the Employee's travel expenses stating that treatment was available at facilities closer to the Employee's home than the University of Virginia Medical Center. Funds' staff have confirmed that closer facilities exist where the beneficiary could have received the ESWL treatment. The Employee could have been referred to one of those facilities had he followed the Employer's prior approval procedures.

Opinion of the Trustees

The Employer is not required to pay travel expenses related to the Employee's treatment at an out-of-area medical facility as published prior approval procedures were not followed.