
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-202 - December 21, 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 a prescription drug under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse's physician prescribed Ortho-Novum 1/35-28, a progestational/estrogenic compound, for treatment of dysmenorrhea (painful menstruation). Although Ortho-Novum 1/35-28 is frequently used for birth control, the physician states that this medication was not prescribed for contraceptive purposes. The physician also states that the patient has had a tubal ligation.

The Employer has denied benefits for the prescription drug stating that birth control medications are specifically excluded under the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits for the Ortho-Novum 1/35-28 prescribed by the Employee's spouse's physician?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Ortho-Novum 1/35-28 because it is medically necessary for the treatment of an illness.

Position of the Employer: The Employer is not required to provide benefits for the Ortho-Novum 1/35-28 because it is birth control medication, which is specifically excluded from coverage under Article III. A. (4)(b') and (11) (a) 20. of the Employer Benefit Plan.

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. 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.

Article III. A. (4) 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 a nonoccupational accident or (ii) licensed dentist for treatment following the performance of those oral surgical services set forth in (3)(e)....

(b) Benefits Excluded

Benefits shall not be provided under paragraph (4) (a) for the following:

...

(2) Birth control prescriptions.

Article III. A. (11) (a) 20. of the Employer Benefit Plan states:

(11) General Exclusions

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

...

20. Birth control devices and medications.

Discussion

The Employer has stated that the Ortho-Novum 1/35-28 prescribed for the Employee's spouse is not a covered benefit because it is a birth control medication and, as such, is specifically excluded from coverage under Article III. A. (4) and (11) (a) 20. of the Employer Benefit Plan.

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 or are otherwise provided for in the Plan. Article III. A. (4) (a) of the Employer Benefit Plan provides benefits for prescription drugs that are prescribed by a physician for the treatment or control of an illness. Article III. A. (4)(b) stipulates that benefits shall not be provided under Article III. A. (4) (a) for birth control prescriptions, and Article III. A. (11) (a) 20. states that benefits are not provided for birth control devices and medications.

In this case, the Employee's spouse had previously undergone a tubal ligation. The Ortho-Novum 1/35-28 was not prescribed for birth control and, consequently, is not excluded under Article III. A. (4) or III. A. (11) (a) 20. of the Plan. A Funds' medical consultant has reviewed the material submitted in this case and advised that the Ortho-Novum 1/35-28 is being properly prescribed for the treatment of an illness, dysmenorrhea. Because the prescription drug, Ortho-Novum 1/35-28, was prescribed by the Employee's spouse's physician and is reasonable and necessary for the treatment of the Employee's spouse's dysmenorrhea, it is covered under Article III. A. (4) (a) of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is required to provide benefits for the Ortho-Novum 1/35-28 prescribed by the Employee's spouse's physician for the medically necessary treatment of an illness.