
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-239 - September 26, 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 arsenic and cholesterol screening tests under the terms of the Employer Benefit Plan.

Background Facts

The Employee and his family went to their physician with concerns that they might have abnormally high levels of arsenic in their bloodstreams because members of three families in their community had been hospitalized for arsenic poisoning. The physician recommended that the Employee and his family members undergo a screening test for arsenic poisoning. The physician also recommended that the Employee and his spouse undergo cholesterol testing because they had never had their cholesterol levels measured before. The Employee states that he and his family members had the tests done at the local hospital because at that time the public health clinic had run out of supplies needed to do the testing. The Employee and his spouse underwent arsenic and cholesterol testing on April 11, 1989, and the Employee's son underwent arsenic testing on April 16, 1989.

A statement from the Employee's physician's office dated May 4, 1989 indicates that the arsenic tests were medically necessary due to high levels of arsenic found in the area where the Employee lives. On January 16, 1990, the Employee's physician stated that he did not have any specific concerns about the patients' arsenic levels other than the fact that they lived in an affected area. He also stated that he did not have any specific concerns about the Employee's and his spouse's cholesterol levels, but was of the opinion that cholesterol testing is a general screening procedure that everyone should undergo every few years. On June 7, 1990, the Complainant submitted another statement from his physician's office indicating that prior to the testing in April 1989 the Employee and his family members had had complaints of vague headache and abdominal discomfort and that a test to rule out arsenic exposure was felt to be necessary for the patients' good health and mental well-being.

The Employer denied benefits for the arsenic and cholesterol screening tests performed on the Employee and his family members.

Dispute

Is the Employer required to provide benefits for the arsenic and cholesterol screening tests the Employee and his spouse underwent on April 11, 1989 and the arsenic screening tests their son underwent on April 16, 1989?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the arsenic and cholesterol screening tests because the tests were ordered by the Employee's physician and were medically necessary.

Position of the Employer: The Employer is not required to provide benefits for the arsenic and cholesterol screening tests because the Employee and his spouse and son were not experiencing specific symptoms that would have necessitated arsenic or cholesterol testing.

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. (3) Co) 2. of the Employer Benefit Plan states:

(3) Physicians' Services and Other Primary Care

(o) Primary Medical Care - Miscellaneous

2. Benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

Discussion

The Introduction to Article III of the Employer Benefit Plan limits covered services to those 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 Introduction further states that 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. Under Article III. A. (3) Co) 2. of the Plan, benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

In this case, the physician originally provided a statement indicating that the tests in question were ordered because high levels of arsenic had been found in residents of the area where the Employee lives. The Employee's physician further stated on January 16, 1990 that he did not have any specific concerns about the patients' arsenic levels other than the fact that they lived in an area where high levels of the element had been found in some residents. The physician also stated that he did not have any specific concerns about the Employee's or his spouse's cholesterol levels, but he is of the opinion that cholesterol testing is a general screening procedure that everyone should undergo every few years. Although a statement from the physician's office submitted to the Funds on June 7, 1990 indicates that family members had complaints of "vague headache and abdominal discomfort" at the time the tests were ordered, no documentation (i.e., physician's notes of the office visit) has been submitted to support this statement.

A Funds' medical consultant has reviewed the information submitted in this case and has advised that there is inadequate documentation of symptomatology in the Employee, his spouse and his son to indicate the need for testing of either their arsenic or cholesterol levels. The consultant states that, in the case of arsenic testing, evidence of poisoning (e.g., an industrial accident, burning of treated wood, or indigestion of certain herbicides, insecticides or other substances containing arsenic) or documented symptoms of poisoning such as fever, headaches, muscle pains, burning pains in the throat and stomach, nausea, vomiting, cramping abdominal pain and diarrhea would indicate the need for a screening test. The medical consultant is of the opinion that the documentation in this case does not establish that the arsenic and cholesterol tests performed on the Employee and his family members were medically necessary. Because the medical necessity of the tests performed in this case has not been established, the Employer is not required to provide benefits under the terms of the Employer Benefit Plan.

Opinion of the Trustees

Based on the particular facts presented in this ROD, the Employer is not required to provide benefits for the arsenic and cholesterol screening tests performed on the Employee and his spouse on April 11, 1989, nor for the arsenic testing performed on the Employee's son on April 16, 1989.