
OPINION OF TRUSTEES

In Re

Complainant: Surviving Spouse
Respondent: Employer
ROD Case No: 88-241 - October 22, 1991

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 transportation expenses under the Employer Benefit Plan.

Background Facts

The surviving spouse has end-stage renal disease secondary to lupus. In July 1981, she began driving herself to a hospital approximately 40 miles from her home for dialysis treatments three times a week. Her physician stated in a letter dated September 25, 1989, that because of complications, including carpal tunnel syndrome of the right wrist, mild polyneuropathy (a non-inflammatory degenerative disease of the nerves) and hypotension (low blood pressure) following hemodialyses, she needed the assistance of a driver and/or escort on occasion to transport her for her treatments. The physician asked that the Employer provide reimbursement for the services of the driver or escort and a mileage allowance for the use of the patient's vehicle. The surviving spouse states that she requested prior approval for the services of an escort, but received no response.

The surviving spouse had an acquaintance drive her to and from her dialysis treatments on July 10, 1989, because she had had surgery on her hand and was unable to drive. The acquaintance also drove her to and from her dialysis treatments in September and October 1989 because she had been experiencing problems with shortness of breath and maintaining her equilibrium. The acquaintance had agreed to drive her to and from her dialysis treatments for \$50 per day. She subsequently requested reimbursement for the acquaintance's charges for these trips. The Employer has provided benefits (\$.15 per mile) for the surviving spouse's transportation expenses. However, the Employer denied benefits for the acquaintance's charges, stating that his sole purpose was to transport the surviving spouse, not to care for her medically during transportation.

When the surviving spouse submitted claims for the escort charges, she also submitted claims for meal expenses incurred by her and her acquaintance during her trips for dialysis treatments. The Employer has denied benefits for the meal expenses, stating that the only reimbursable item for beneficiaries requiring frequent transportation between their home and a hospital or clinic is the actual cost of the least expensive, feasible form of transportation.

Dispute

Is the Employer required to provide benefits for the services of an escort and for meal expenses incurred by the surviving spouse and her escort during her trips for dialysis treatments?

Positions of the Parties

Position of the Surviving Spouse: The Employer is required to provide reimbursement for the services of an escort and for meal expenses incurred by the surviving spouse and her escort during the surviving spouse's dialysis treatments because such expenses are covered benefits under the Employer Benefit Plan.

Position of the Employer: The Employer states that it is only required to provide benefits for the cost of transportation, i.e., a mileage allowance, for beneficiaries requiring frequent transportation between their home and a hospital or clinic. The Employer states that meal expenses are not reimbursable with this type of transportation; such expenses are reimbursable only when a beneficiary is required to travel to an "out-of-area" medical center (more than 100 miles from the beneficiary's home). The Employer states that the charges for an escort are not payable in this case because the sole purpose of the escort was to transport the beneficiary, not to care for her medically. The Employer states that its position is consistent with the Funds' practice under the 1950 Benefit Plan.

Pertinent Provisions

Article III. A. (7) (e) of the Employer Benefit Plan states:

(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.

2. If the Beneficiary requires frequent transportation between the Beneficiary's home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment which would otherwise require hospitalization, benefits will be provided for such transportation only when the Beneficiary cannot receive the needed care without such transportation.
3. If the Beneficiary requires an escort during transportation, the attending physician must submit satisfactory evidence as to why the Beneficiary needs an escort.

Discussion

Article III. A. (7) (e) of the Employer Benefit Plan provides benefits for frequent transportation between a Beneficiary's home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment that would otherwise require hospitalization, when the Beneficiary cannot receive the needed care without such transportation. The Employer has provided benefits at the rate of \$.15 per mile for the surviving spouse's trips for dialysis treatments. The Employer has denied benefits for meal expenses incurred by the surviving spouse during these trips. It is the Funds' practice under the 1950 Benefit Plan that, if a beneficiary requires frequent transportation between his home and a hospital or clinic, benefits for transportation expenses are limited to the cost of the least expensive, feasible form of transportation. Other expenses such as meals and lodging are reimbursable only when transportation to an out-of-area (100 miles or more from the beneficiary's home) medical facility is required. Inasmuch as the surviving spouse in this case requires frequent transportation by automobile to a facility approximately 40 miles from her home, the Employer's obligations under the terms of the Plan, and consistent with Funds' practice, is limited to providing reimbursement for the use of the beneficiary's automobile.

Under Article III. A. (7) (e), benefits are also provided for expenses incurred by an escort if one is required during transportation and the attending physician submits satisfactory evidence as to why the Beneficiary needs an escort. A Funds' medical consultant has reviewed the information submitted in this case and advises that there is no documentation of a specific medical condition that would require the assistance of an escort to care for the patient during her trips for dialysis treatments. Therefore, the Employer is not required to provide benefits for the services of an escort in this case.

Opinion of the Trustees

The Employer is not required to provide benefits for meal expenses nor for the use of an escort during the surviving spouse's trips for dialysis treatments.