
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-242 - February 28, 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 health benefits for services provided by an athletic trainer under the terms of the Employer Benefit Plan.

Background Facts

The Employee's fourteen-year-old daughter has recurrent dislocation of her right kneecap as a result of a sports-related injury she sustained in 1985. On March 13, 1989, she reinjured her right knee in an accident. She visited an orthopedic surgeon on March 15, 1989 who prescribed outpatient physical therapy. She received six physical therapy treatments in the physical therapy department of a local hospital between March 20, 1989 and April 1, 1989. On April 5, 1989, the orthopedic surgeon cast her right leg and prescribed isometric strengthening of her right leg twice a week for one month to be provided by an athletic trainer. The Employee's daughter received services (electrical muscle stimulation, therapeutic exercises, ultrasound and the application of hot/cold packs) on nineteen dates from April 10, 1989 through August 24, 1989 from a licensed athletic trainer.

The Employer provided benefits for the orthopedic surgeon's charges and the hospital's physical therapy charges but denied benefits for the athletic trainer's services rendered from April 10, 1989 through August 24, 1989.

Dispute

Is the Employer required to provide benefits for the services the Employee's daughter received from an athletic trainer from April 10, 1989 through August 24, 1989?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the services the Employee's daughter received from an athletic trainer because they were rendered under the direct supervision of an orthopedic surgeon, and the provider is licensed to provide the therapy prescribed by the orthopedic surgeon.

Position of the Employer: The Employer is not required to provide benefits for the services rendered by the athletic trainer because such services were directed towards physical conditioning rather than physical therapy and because they were not rendered by a licensed physical therapist, as required for coverage under the Employer Benefit Plan. The Employer questions whether the Employee's daughter's physician ordered the type of treatment that was rendered by the athletic trainer and whether the treatment was provided under the physician's direct supervision.

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)(p) 8. of the Employer Benefit Plan states:

(3) Physicians' Services and other Primary Care

(p) Services Not Covered

...

8. Services of any practitioner who is not legally licensed to practice medicine, surgery, or counseling except as specifically provided herein.

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

(7) Other Benefits

(b) Physical Therapy

Benefits are provided for physical therapy in a hospital, skilled nursing facility, treatment center, or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician and administered by a licensed therapist. The physical therapy treatment must be justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration.

Article III. A. (11)(a) 27. 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:

...

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. 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) (p) 8. of the Plan states that non-covered services include services of any practitioner who is not legally licensed to practice medicine, surgery or counseling except as specifically provided under the Plan. Article III. A. (7) (b) of the Employer Benefit Plan provides benefits for physical therapy in a hospital, skilled nursing facility, treatment center or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician, administered by a licensed therapist and justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration. Article III. A. (11) (a) 27. of the Plan states that in addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for any types of services, supplies or treatments not specifically provided by the Plan.

In this case, an orthopedic surgeon prescribed isometric strengthening for the Employee's daughter's right leg twice a week for one month to be provided by an athletic trainer. The Employee's daughter received services consisting of electrical muscle stimulation, therapeutic exercises, ultrasound and the application of hot/cold packs to her right leg. According to the Illinois Athletic Trainers Practice Act, a "registered athletic trainer is a person registered to

practice athletic training ... who, upon the direction of his team physician and/or consulting physician carries out the practice of prevention/emergency care and/or physical reconditioning of injuries incurred by athletes." The Act does not indicate that an athletic trainer is licensed to administer physical therapy. In fact, the educational training and licensing requirements for

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athletic trainers and physical therapists are distinct and governed by separate practice acts in the State of Illinois. Because an athletic trainer is not a licensed physical therapist and benefits are not otherwise provided for any types of services not specifically provided for by the Plan, the Employer is not required to provide benefits for the services the Employee's daughter received from the athletic trainer.

Opinion of the Trustees

The Employer is not required to provide benefits for the services the Employee's daughter received from an athletic trainer between April 10, 1989 and August 24, 1989.