
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-250 - August 22, 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 a motorized chair under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's sixteen-year-old daughter has hypohidrotic ectodermal dysplasia (HED), a congenital abnormality in the development of her sweat glands that prevents her from adequately controlling her body temperature. As a result, she suffers from chronic dermatitis on her hands and feet. She was seen by a dermatologist who prescribed treatment consisting of tar emulsion soaks and the application of ointment to the affected areas.

In a letter dated October 28, 1988, the Pensioner's daughter's physician stated that her condition prevents her from wearing shoes and going to school. He prescribed a motorized three-wheeled chair for her use so that she could go to school without shoes. The Pensioner purchased the motorized chair on February 17, 1989.

The physician subsequently prescribed special cooling shoes for the Pensioner's daughter that are part of a thermal control system. The system was purchased with contributions made to the HED Foundation on behalf of the Pensioner's daughter. According to the Pensioner's spouse, the cooling shoes are like a bootie that can be worn inside her daughter's regular shoes. Cooling is provided by a temperature-controlled liquid flowing through the shoes which are connected to a portable cooling unit. The Pensioner's spouse states that her daughter continues to use the motorized chair because she cannot carry all the supplies -power unit, cooling fluid, etc.) needed for extended use of the cooling shoes when away from home. The Pensioner's spouse states that her daughter uses the chair at school, for shopping, and for recreational activities.

The Employer has denied coverage for the purchase of the motorized chair on the grounds that such equipment is not medically necessary and is not intended for home use. Initially, the Employer also denied coverage for the use of the special cooling shoes and attendant cooling fluids and supplies, but after further review, the Employer decided to provide coverage for such equipment. Thus, the charges pertaining to the cooling shoes and supplies related to their use are no longer in dispute.

Dispute

Is the Employer required to provide benefits for the Pensioner's daughter's motorized chair?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the Pensioner's daughter's motorized chair because it has been determined by her physician that this equipment is medically necessary.

Position of the Employer: The Employer is not required to provide benefits for the motorized chair because it is not intended for home use and it is not medically necessary for the treatment of her illness.

Pertinent Provisions

Article III. A. (6)(d) of the Employer Benefit Plan provides:

(6) Home Health Services and Equipment

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A 81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trusts,
Article III, Sections A (6) (d) and (e), and A (7) (a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

- A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:
1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes, and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheelchairs.
 2. Medical supplies necessary to maintain homebound or bedridden Beneficiaries. Examples of covered supplies are enema supplies, disposable sheets and pads (also called "Chux" or "blue pads"), supplies for home management of open or draining wounds, heating pads (for therapeutic use only) and insulin needles and syringes.
 3. Oxygen, as specified in Article III, Section A (6)(e).

Discussion

Under Article III. A. (6) (d) of the Employer Benefit Plan, benefits are provided for medical equipment suitable for home use when determined to be medically necessary by a physician. The type of medical equipment that is covered is further defined by Q&A 81-38, which states that covered medical equipment is that which (a) can withstand use; (b) is primarily and customarily used to serve a medical purpose; (c) generally is not useful to a person in the absence of an illness or injury; and (d) is appropriate for use in the home. Thus, Q&A 81-38 clearly applies only to medical equipment that is medically necessary for home use.

The Trustees have previously addressed the issue of coverage for specialized types of wheelchairs such as electric wheelchairs and motorized three-wheeled chairs in RODs 84-232, 84-270 and 84-340 (copies enclosed herein). In each decision, the Trustees concluded that the specialized wheelchair was not covered because it had not been established that it was medically necessary for the patient's home use. A wheelchair is considered medically necessary if the patient's medical condition is such that, without the use of a wheelchair, the patient would be confined to a bed or a chair. Specialized types of wheelchairs may be appropriate and medically necessary if a beneficiary meets the coverage requirements for a wheelchair, but is unable to operate one manually.

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In this case, the Pensioner's daughter's physician recommended that she obtain a motorized three-wheeled chair to allow her to go to school without shoes. The documentation provided does not indicate that, without the motorized three-wheeled chair, the Pensioner's daughter would be confined to a bed or chair or that she is unable to ambulate independently. Thus, the Pensioner's daughter does not meet the coverage requirements for a wheelchair. Because the motorized three-wheeled chair prescribed in this case is not medically necessary for the Pensioner's daughter's home use, it is not a covered benefit under the Plan.

Opinion of the Trustees

The Employer is not required to provide benefits for the Pensioner's daughter's three-wheeled motorized chair.