

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-276 - July 25, 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 the services of a physician's assistant under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse underwent a lumbar laminectomy on November 1, 1988. A neurosurgeon performed the surgery and was assisted by another surgeon and a physician's assistant.

The Employer provided coverage for the services of the neurosurgeon and the assistant surgeon. The Employer denied coverage for the services of the physician's assistant, stating that the surgical procedure performed did not warrant the use of two assistants. The Employer further stated that benefits are not payable because physician's assistants are not registered, certified, or licensed.

Dispute

Is the Employer required to provide benefits for the services of the physician's assistant?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the services of the physician's assistant.

Position of the Employer: The Employer is not required to provide benefits for the services of the physician's assistant because the surgical procedure performed did not warrant the use of two assistants and because physician's assistants are not registered, certified, or licensed.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states:

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. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of questionable current usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III. A. (3)(b) and (o) 4. of the Employer Benefit Plan state:

(3) Physicians' Services and Other Primary Care

(b) Assistant Surgeons

If the Beneficiary is an inpatient in a hospital, benefits will also be provided for the services of a physician who actively assists the operating physician in the performance of such surgical -services when the condition of the Beneficiary and type of surgical service require such assistance.

(o) Primary Medical Care - Miscellaneous

4. Benefits are provided for "physician extender" care or medical treatment administered by nurse practitioners, physician's assistants or

other certified or licensed health personnel when such service is rendered under the supervision of a physician.

Discussion

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. It 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. Article III. A. (3)(b) of the Plan states that if a Beneficiary is an inpatient in a hospital, benefits will be provided for the services of a physician who actively assists the operating physician in the performance of surgical services when the condition of the Beneficiary and the type of surgical service performed require such assistance. In addition, under Article III. A. (3)(o) 4. of the Plan, benefits are provided for "physician extender" care or medical treatment administered by nurse practitioners, physician's assistants, or other certified or licensed health personnel when such service is rendered under the supervision of a physician.

In this case, the Employer provided coverage for the services of the surgeon and the assistant surgeon, but denied coverage for the services of the physician's assistant who assisted at the Pensioner's spouse's lumbar laminectomy. The physician's assistant in this case is certified by the West Virginia Board of Medicine, and her services were rendered under the supervision of the operating physician. A Funds' medical consultant has reviewed the information submitted in this case, including the operation report, and advises that there is no documentation that would indicate that it was medically necessary for a second surgical assistant (the physician's assistant) to be present at the surgery performed in this case. Because the medical necessity of the physician's assistant's services has not been established, the Employer is not required to provide benefits for such services under the terms of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to provide benefits for the services of the physician's assistant in this case.