
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-320 - November 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 benefits for orthopedic devices for an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Employee was treated by an orthopedic surgeon for complaints of elbow pain and an inability to lift or push objects above shoulder level. He was diagnosed with medial epicondylitis (tennis elbow) bilaterally and fitted with tennis elbow braces for both arms. In addition, the physician advised the Employee to use moist heat and Aspercreme ointment, and he prescribed an anti-inflammatory drug (Orudis). The Employer has denied coverage for the tennis elbow braces.

Dispute

Is the Employer required to provide benefits for the Employee's tennis elbow braces?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the tennis elbow braces under the Employer Benefit Plan because they are covered medical supplies.

Position of the Employer: The Employer is not required to provide benefits for the tennis elbow braces because they do not qualify as covered durable medical equipment under the Plan. Furthermore, the tennis Elbow braces are excluded from coverage under the Plan because they were prescribed for prevention of further injury to the Employee's elbow rather than for medical treatment.

Pertinent Provisions

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

(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.

Article III. A. (7) (a) 3. of the Employer Benefit Plan states:

(7) Other Benefits

(a) Orthopedic and Prosthetic Devices

Benefits are provided for orthopedic and prosthetic devices prescribed by a physician when medically necessary. The following types of equipment are covered:

3. Leg, arm, back and neck braces.

Discussion

Article III. A. (7) (a) 3. of the Employer Benefit Plan establishes that benefits are provided for leg, arm, back and neck braces prescribed by a physician when medically necessary. The tennis elbow braces prescribed by the Employee's physician in this case are orthopedic devices. Thus, the Durable Medical Equipment provision of the Plan is not applicable in this case.

A Funds' medical consultant has reviewed this case and has advised that the tennis elbow braces were prescribed to enable the Employee to perform his daily activities at work and at home with a minimum of discomfort and to aid in healing by protecting the elbows from further injury. The consultant also stated that the braces are not primarily preventive in nature; rather, they are medically necessary for treatment of the patient's medical condition. According to the consultant, a more common example of such treatment would be the use of a cast or splint for a sprained ankle. Because the Employee's tennis elbow braces were prescribed by a physician and are medically necessary, the Employer is required to provide benefits for the braces in accordance with Article III. A. (7) (a) 3. of the Employer Benefit Plan.

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The Employer is required to provide benefits for the Employee's tennis elbow braces.