

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-359 - February 28, 1991

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau,

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 neurothermography for an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Employee has been treated by his physician for migraine headaches since at least 1986. As recommended by his physician, the Employee underwent Computerized Tomography (CT) Scans in 1986 and 1989, and a Magnetic Resonance Imaging (MRI) in 1989. None of those tests indicated any physical abnormalities. Because he continued to experience frequent migraine headaches, the Employee was referred to a neurologist who specializes in the treatment of headaches for further evaluation and treatment.

On July 24, 1990, the Employee was seen by the neurologist for a thermogram (a non-invasive diagnostic procedure that records and displays relative differences in body surface temperatures). The neurologist has stated that the procedure provides information about sympathetic nerve function which was not previously available and which may be used to evaluate unexplained persistent pain. The neurologist has stated that neurothermography is of proven value as the only positive test for migraine headaches.

The Employer has denied the charge for the Employee's thermogram, stating that thermography is not widely accepted as a standard evaluative procedure in cases of headache and such use is experimental in nature.

Dispute

Is the Employer required to provide benefits for the thermogram performed on the Employee on August 20, 1990?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the thermogram because it was medically necessary for the diagnosis and treatment of the Employee's migraine headaches.

Position of the Employer: The Employer is not required to provide benefits for the thermogram because the procedure is not widely accepted as a standard evaluative procedure in cases of headache and such use is experimental in nature.

Pertinent Provisions

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

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. (11) (a) 24. of the Employer Benefit Plan provides:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

24. Charges for treatment with new technological medical devices and therapy which are experimental in nature.

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. 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 the Plan. The Introduction further states that services which are not reasonable and necessary include procedures which are of unproven value or of questionable current usefulness. In addition, Article III. A. (11)(a)24. of the Plan excludes benefits for treatment with new technological medical devices and therapy which are experimental in nature.

The Employer has stated that the neurothermogram performed on the Employee is not a covered benefit under the Plan because the procedure is not generally accepted by the medical profession as a standard evaluative procedure in cases of headache and such use is experimental in nature.

An assessment of thermography in neurologic practice by the American Academy of Neurology, Therapeutics and Technology Assessment Subcommittee, was published in March 1990. The Subcommittee concluded that, based on the current medical literature, thermography has not been shown to provide sufficient reliable information about neurologic dysfunction or deficit to accept it as a proven evaluative procedure for the clinical diagnosis or characterization of headache and certain other conditions. In addition, the Health Care Financing Administration does not list evaluation of headache as one of the indications for which thermography is covered under the Medicare Program.

A Funds' medical consultant has reviewed this case and has advised that the use of thermography in the diagnosis and treatment of headaches is not supported by the scientific literature and is not recognized by the medical community as having proven value. The consultant has advised that the thermogram provided in this case was not medically necessary for the diagnosis and treatment of the Employee's condition and that its use in this instance is considered experimental at this time. Inasmuch as the thermogram performed on the Employee was not medically necessary for the diagnosis of his medical condition, the Employer is not required to provide benefits for it under the terms of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to provide benefits for the thermogram performed on the Employee on August 20, 1990.