

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-361 - June 6, 1991

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 plastic surgery for an Employee's spouse under the terms of the Employer Benefit Plan.

Background Facts

In 1983, the Employee's spouse underwent surgery to remove most of an enlarged thyroid. The charges related to that surgery are not in dispute. However, the Employee's spouse has weight problems, particularly in the upper body area, which she attributes to her thyroid condition. For the past three years, the Employee's spouse has been treated by a chiropractor for upper back and neck pain. The chiropractor says this pain is caused by a structural instability resulting from the extreme heaviness and overgrowth of her disproportionately large arms. Because her symptoms were chronic and aggravated by her occupation as a hairdresser, he referred her to a surgeon who specializes in plastic and reconstructive surgery.

The plastic surgeon evaluated her condition and determined that, even though she is overweight, weight reduction alone would not necessarily provide significant relief from her symptoms. He recommended she undergo outpatient surgery (lipoplasty with resection and liposuction) to reduce her upper arms. On June 21, 1990, the plastic surgeon sent a letter to the Employer's claims administrator requesting prior approval for the surgery, which was tentatively scheduled for July 9, 1990. The Employer notified the Employee on July 9, 1990 that the request would need to be reviewed by a medical consultant before a decision could be made.

The surgery was performed as scheduled on July 9, 1990. The Employer has denied benefits on the basis that the surgery was performed without prior approval and reviews by the Employer's medical consultants have indicated that the surgery was cosmetic in nature, that it was not

performed to correct a surgical scar, accidental injury, or birth defect and was not otherwise medically necessary.

Dispute

Is the Employer required to provide health benefits for the Employee's spouse's arm reduction surgery performed on July 9, 1990?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the arm reduction surgery because it was necessary to relieve the strain on the Employee's spouse's back and neck and it was not performed for cosmetic purposes.

Position of the Employer: The Employer is not required to provide benefits for the arm reduction surgery because the surgery was performed without the prior approval of the Plan Administrator. In addition, the surgery was not medically necessary for the diagnosis or treatment of an illness or injury, but was cosmetic surgery which was not performed to correct a surgical scar or the results of an accidental injury or birth defect. Therefore, the surgery is not a covered benefit under the terms of the Employer Benefit Plan.

Pertinent Provisions

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

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)(f) and (p) 9. of the Employer Benefit Plan state:

(3) Physicians' Services and Other Primary Care

(f) Surgical Services Limitations

Benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Such surgical procedures include, but are not limited to, the following:

Plastic surgery, including mammoplasty
Reduction mammoplasty

Intestinal bypass for obesity
Gastric bypass for obesity
Cerebellar implants
Dorsal stimulator implants
Prosthesis for cleft palate if not covered by crippled children
services
Organ transplants

(p) Services Not Covered

9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are those that 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 Introduction 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)(f) of the Plan states that benefits are not provided for certain surgical services, including plastic surgery, without prior approval of the Plan Administrator. Article III. A. (3)(p) 9. further states that cosmetic surgery is not covered unless it pertains to surgical scars or to correct the results of an accidental injury or birth defects.

A Funds' medical consultant has reviewed the information submitted in this case, including medical records and written statements from the Employee's spouse's treating physicians. The consultant has advised that the surgical procedure of lipoplasty with resection and liposuction of both arms was not required to treat a medical illness or condition. According to the consultant, the information provided does not establish that the surgery was performed for other than cosmetic reasons. The consultant further advises that the surgery was not performed to correct surgical scars or to correct the results of an accidental injury or birth defects. Therefore, the Employee's spouse's arm reduction surgery is not a covered benefit under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to provide benefits for the Employee's spouse's arm reduction surgery performed on July 9, 1990.