

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-390 - November 20, 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 the use of infrared thermography in the diagnosis and treatment of reflex sympathetic dystrophy (RSD) syndrome under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse was diagnosed with reflex sympathetic dystrophy (RSD) syndrome, a disturbance of the sympathetic nervous system that results in an Irregular blood supply to the affected areas and is marked by burning pain, sweating, edema or skin atrophy. In October 1989, a rheumatology specialist began treatment that included thermography (heat mapping) sessions to measure the course of her RSD during the prescribed treatment.

The Employer has provided benefits for the various services provided by the specialist, except for the thermography sessions.

Dispute

Is the Employer required to provide benefits for thermography in the diagnosis and treatment of RSD?

Positions of the Parties

Position of the Employee: The Employee asks whether the Employer is required to provide benefits for thermography as medically appropriate for the diagnosis and treatment of RSD.

Position of the Employer: The Employer is not required to provide benefits for thermography because the procedure is considered experimental and not medically necessary for the diagnosis and treatment of the spouse's condition.

### 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)(o) 2. of the Employer Benefit Plan states:

(3) Physicians' Services and Other Primary Care

(o) Primary Medical Care - Miscellaneous

2. Benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

Article III. A. (11) (a) 24. of the Employer Benefit Plan states:

(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 limits covered services 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 Introduction further states that services which are not reasonable or necessary shall include procedures which are of unproven value or of questionable current usefulness. Article III. A. (3)(o) 2. of the Employer Benefit Plan provides benefits for screening and diagnostic procedures performed by a physician when medically necessary. 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 thermography services rendered to the Employee's spouse are not covered benefits under the Plan because thermography is experimental and not medically necessary for the diagnosis and treatment of the Employee's spouse's condition.

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 thermography has been reported in the current medical literature to be useful in characterizing RSD. The Health Care Financing Administration has not published an exhaustive listing of the specific medical conditions for which thermography is covered under the Medicare Program. However, in the absence of coverage guidelines pertaining specifically to RSD syndrome, coverage under the Medicare program for this application is subject to the Medicare carrier's determination of reasonableness and medical necessity in each case.

A Funds' medical consultant has reviewed this case and states that the use of thermography is appropriate when subtle differences in the temperature of parts of the body are important for diagnosis or for following the effectiveness of prescribed treatment for certain conditions. He further states that RSD is, in his opinion, such a condition, and that progress notes and office visit reports document that in this case thermography was useful in evaluating the more conservative treatments used and avoiding the need for more complicated measures, such as lumbar sympathectomy. The consultant has advised that the thermography in this case was medically necessary to diagnose and follow the progress of the RSD treatment.

Inasmuch as the thermograms performed on the Employee's spouse in this case were medically necessary for the treatment of her condition, and thermography is not considered to be experimental for this use, the Employer is responsible for providing benefits for such treatment under the terms of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is responsible for providing benefits for thermography performed on the Employee's spouse in the course of treatment for reflex sympathetic dystrophy (RSD).