
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-394 - July 30, 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 equipment prescribed for an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Employee underwent a total hip arthroplasty (replacement) in November 1990. His orthopedic surgeon states that the hip needed to remain non-weight bearing for a full ten weeks following the operation, even during bathing. The surgeon prescribed a sock aid, reacher, shower hose and shower bench for the Employee's home use to allow him to safely reach, bend and shower without placing his operative hip at risk of dislocation and to prevent the need for further surgery.

The Employer has denied benefits for the purchase of the sock aid, reacher, shower hose and shower bench.

Dispute

Is the Employer required to provide benefits for the sock aid, reacher, shower hose and shower bench prescribed by the Employee's surgeon?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the prescribed sock aid, reacher, shower hose and shower bench because these Items are durable medical equipment that is medically necessary given the Employee's condition.

Position of the Employer: The Employer is not required to provide benefits for the prescribed sock aid, reacher, shower hose and shower bench because they are convenience items that do not meet the definition of durable medical equipment.

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.

Discussion

Article III. A. (6)(d) of the Employer Benefit Plan provides benefits for medical equipment suitable for home use when determined to be medically necessary by a physician. Q&A 81-38 (copy enclosed herein) states that covered medical equipment is that which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to serve a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Q&A 81-38 further states that items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use, are not covered benefits.

The Employer in this case has denied benefits for the sock aid, reacher, shower hose and shower bench prescribed by the Employee's orthopedic surgeon on the grounds that such items are convenience items, not durable medical equipment. The shower hose is useful to (and often used by) persons in the absence of an illness or injury. In addition, the shower hose, the sock aid and the reacher are all self-help devices which make it easier for the patient to perform certain tasks independently with minimum movement of his hip joint. They do not primarily and customarily serve a medical purpose. Rather, these items are of a convenience nature and, therefore, are not covered under the Employer Benefit Plan.

In contrast, safety bathroom equipment, such as the shower bench purchased by the Employee in this case, is one of the examples of covered durable medical equipment (DME) given in Q&A 81-38. While such equipment may meet the definition of DME outlined in A&Q 81-38, it is covered under Article III. A. (6)(d) of the Employer Benefit Plan only if it is medically necessary, consistent with the Trustees' decision in ROD 88-115 (copy enclosed herein). A Funds' medical

consultant has reviewed the information provided in this case and has advised that the shower bench prescribed by the Employee's physician provided the best means of meeting the non-weight bearing requirement and the need to bathe during the Employee's ten-week period of convalescence. Accordingly to the consultant, self-administered tub baths and sponge baths would be more difficult for the patient and would require more hip movement, which the Employee's physician wanted to avoid. The consultant has stated that showering without the prescribed shower bench would be hazardous and could potentially lead to serious injury. For these reasons, the consultant concluded that the shower bench prescribed in this case is a medically necessary item of durable medical equipment. Accordingly, the Employer is required to provide benefits for the shower bench under the terms of the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to provide benefits for the sock aid, reacher, and shower hose prescribed for the Employee. However, the Employer is required to provide benefits for the shower bench prescribed in this case.