

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-413 - 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 gastric bypass surgery under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse requested prior approval from the Employer for coverage of a proposed gastric bypass. The Employee's spouse's physician has stated that she is 5'6" tall and weighs 265 pounds, that she has been overweight all her life and has attempted to lose weight through Weight Watchers, Overeaters Anonymous, diets and acupuncture without success. He reports that she has a family history of diabetes, and that she experiences shortness of breath, knee and foot pain, varicose veins and insomnia. The physician has recommended a gastric bypass.

The Employer refused to grant prior approval for the gastric bypass because the Employee's spouse is not over 200% of her desirable weight (130 to 144 pounds). The Employer states that she is morbidly obese; however, there is inadequate evidence to show that other methods of weight reduction have failed and there is no evidence of medical conditions which are aggravated by the Employee's spouse's excess weight and which would make the proposed surgery medically necessary.

Dispute

Is the Employer required to provide coverage for the Employee's spouse's proposed gastric bypass?

Positions of the Parties

Position of the Employee: The Employer Is required to provide coverage for the Employee's spouse's gastric bypass because the requirements for coverage for this procedure under the Employer Benefit Plan have been met.

Position of the Employer: The Employer is not required to provide coverage for the Employee's spouse's gastric bypass because she is not over 200% of her desirable weight, there is no evidence that other methods of medical treatment of weight loss have failed, and the medical necessity for this procedure has not been established.

#### Pertinent Provisions

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

Covered benefits 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. (11) (a) 25. 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:

25. Charges for treatment of obesity, except for pathological, morbid forms of severe obesity (200% or more of desirable weight) when prior approval is obtained from the Plan Administrator.

#### Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are those which are reasonable and necessary for the treatment of an illness. Under Article III. A. (11) (a) 25. of the Plan and consistent with the Trustees' decision in ROD 84-633 (copy enclosed herein), coverage is not provided for surgical treatment of obesity unless the beneficiary has a pathological, morbid form of severe obesity (200% or more of desirable weight), has tried other more conservative therapies which proved unsuccessful, and has obtained prior approval from the Plan Administrator.

The Employee's spouse's physician has stated that her desirable weight is 130 pounds. In addition, the 1983 Metropolitan Insurance Company's Height and Weight Tables give the desirable weight range of 130 to 144 pounds for a female who is 5'6" tall and of medium frame.

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Based on the tables, the Employee's spouse's weight would have to be 260 pounds at a minimum to meet the Plan's definition of severe obesity. Thus, the Employee's spouse's weight of 265 pounds meets that definition.

A Funds' medical consultant reviewed this case and advised that while the Employee's spouse may be over 200% of her ideal body weight and may satisfy the Plan definition of severe obesity, there is inadequate medical documentation to show that more conservative measures for weight loss have been tried in earnest and that such measures proved unsuccessful. The consultant advised that there is also no documentation of associated physical or medical problems related to the patient's obesity that would make surgery medically necessary. It is the consultant's opinion that the medical necessity of a gastric bypass operation for this patient has not been established. Because the medical necessity of the proposed surgery has not been established, the Employer's denial of prior approval in this instance is reasonable.

#### Opinion of the Trustees

The Employer is not required to provide coverage for the Employee's spouse's proposed gastric bypass.