
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-420 - October 31, 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 health benefits for reduction mammoplasty under the terms of the Employer Benefit Plan.

Background Facts

The Employee's wife has a history of chronic upper back, neck and shoulder pain that has been associated with extremely large breasts. Weight loss and drug therapy have not alleviated this pain.

Five physicians, including the spouse's primary physician and two surgeons, have recommended bilateral reduction mammoplasty (breast reduction surgery) to alleviate the patient's symptoms of shoulder, neck and back pain. The Employer denied the Employee's request for prior approval of the surgery, stating that it is cosmetic and not covered under the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits for the proposed reduction mammoplasty?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the bilateral reduction mammoplasty because it is medically necessary.

Position of the Employer: The Employer is not required to provide benefits for the proposed surgery because it is cosmetic, and cosmetic surgery is not a covered benefit under the terms of

the Employer Benefit Plan unless it is performed to correct a surgical scar or the results of an accidental injury or birth defect.

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

(3) Physicians' Services and Other Primary Care

(a) Surgical Benefits

Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedure (including the usual and necessary post-operative care) for the treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

...

(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 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. Article III. A. (3) (a) states that benefits are provided for surgical services essential to a Beneficiary's care for the treatment of illnesses, injuries, fractures or dislocations. Article III. A. (3)(f) of the Plan states that benefits are not provided for certain surgical services, including reduction mammoplasty, without prior approval of the Plan Administrator. In addition, Article III. A. (3)(p) 9. states that cosmetic surgery is not covered unless it is performed to correct surgical scars or to correct results of an accidental injury or birth defects.

The Employer has denied the request for prior approval of the Employee's spouse's proposed breast reduction surgery, stating that it is cosmetic and not covered under the Employer Benefit Plan. A Funds' medical consultant has reviewed the information submitted in this case, including written statements from several physicians, among them the Employee's spouse's primary physician, and photographs demonstrating the extent of the patient's macromastia (greatly enlarged breasts). The consultant notes that the patient's numerous evaluations and consultations have included visits to orthopedists, a general surgeon and a plastic surgeon, and that all have recommended reduction mammoplasty to alleviate the patient's shoulder, thoracic and cervical pains. The consultant further notes that the patient has been treated for these symptoms for several years with more conservative therapies without relief and that a mammogram performed on July 7, 1986 showed no contraindications to the proposed surgery. The Funds' consultant has advised that, in light of the extent of the patient's macromastia, the consistent recommendations by numerous examining physicians, and the failure of more conservative therapy, the proposed reduction mammoplasty is medically necessary to relieve the patient's symptoms of shoulder, neck and back pain, and it is not considered to be cosmetic surgery in this instance.

Inasmuch as the proposed bilateral reduction mammoplasty is medically necessary for the treatment of an illness, the Employer's denial of prior approval is not justified in this instance. Under the circumstances presented here, the Employer is required to provide benefits for the proposed breast reduction surgery.

Opinion of the Trustees

The Employer is required to provide benefits for the Employee's spouse's proposed bilateral reduction mammoplasty.