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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 88-593 - December 10, 1993

Board of Trustees: Michael H. Holland, Chairman; Thomas F. Connors, Trustee;  
Marty D. Hudson, Trustee; Robert T. Wallace, Trustee.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits for binaural hearing aids under the terms of the Employer Benefit Plan.

Background Facts

On May 31, 1991 a physician certified that the Pensioner would benefit from hearing amplification. An audiologist performed an audiological and hearing aid evaluation for the Pensioner on June 10, 1991 and recommended a hearing aid for each ear to insure maximum speech understanding and directionality in the presence of common everyday background noise. On November 6, 1991, the Pensioner purchased binaural hearing aids from a Funds' participating hearing aid vendor.

The Employer provided benefits for the audiological and hearing aid evaluation and one hearing aid, but denied benefits for the second hearing aid, stating that Article III. A. (7)(d) of the Employer Benefit Plan provides coverage for a hearing aid for only one ear.

Dispute

Is the Employer required to provide benefits for the second of the binaural hearing aids purchased by the Pensioner on November 6, 1991?

Positions of the Parties

Position of the Pensioner: r: The Employer is required to provide benefits for the second of the binaural hearing aids purchased by the Pensioner on November 6, 1991 because it is a covered service.

Position of the Employer: The Employer is not required to provide benefits for the second of the binaural hearing aids purchased by the Pensioner on November 6, 1991 because the company's Employer Benefit Plan provides coverage for a hearing aid for only one ear.

### Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states in pertinent 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.

Article III. A. (7)(d) of the Plan provides in pertinent part:

#### (d) Hearing Aids

\_\_\_\_\_ Benefits are provided for hearing aids recommended by a licensed otologist or otolaryngologist and a certified clinical audiologist. Such hearing aids must be purchased from a participating vendor....

### Discussion

The Introduction to Article III of the Employer Benefit Plan provides benefits for services that are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are provided at the appropriate level of care. An audiological and hearing aid evaluation was performed by a certified clinical audiologist resulting in the establishment of medical necessity for binaural hearing aids. Article III. A. (7)(d) provides benefits for hearing aids recommended by a licensed otologist or otolaryngologist and a certified clinical audiologist and which are purchased from a participating vendor. In the absence of an otologist or otolaryngologist, the Funds accepts a statement from the attending physician that the beneficiary has been medically cleared for a hearing aid. In this case, the Pensioner's physician submitted such a statement, the Pensioner was examined by a certified clinical audiologist, and the hearing aids were purchased from a participating vendor.

The Employer has stated that the Employer Benefit Plan provides benefits for a hearing aid for only one ear. In fact, the Plan is silent on the appropriateness of one vs. two hearing aids. It is Funds' practice to allow the purchase of two hearing aids when tests show that the second hearing aid will improve hearing by 20 percent or more. Additional Funds' criteria for binaural hearing aids call for prior approval and at least a 20 percent increase in speech reception threshold and percentage of discrimination (absent unusual circumstances). Also, the hearing impairment should be neither mild nor profound, and the hearing thresholds for both ears should be similar, as should speech discrimination difference. Specific measurements must be provided to justify binaural aids.

Because in this case the binaural hearing aids were recommended by the Pensioner's attending physician and a certified clinical audiologist, the recommendation was within Funds' guidelines for binaural aids, and the were purchased from a participating hearing aid vendor, the Trustees conclude that the Employer is required to provide benefits for the second of the binaural hearing aids as well as the first.

Opinion of the Trustees

The Employer is required to provide benefits for the second of the binaural hearing aids purchased by the Pensioner on November 6, 1991.