
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-619 - September 30, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Elliot A. Segal, 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 stapling under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse was referred to a surgical specialist to evaluate her for a possible gastric stapling procedure. According to the medical record from the surgeon, the spouse is 5 feet tall and weighs 248 pounds. The same medical record states that the ideal weight for a woman of her height and build would be 123 pounds. The standard tables show an ideal weight range of 104 to 137 pounds, depending on size of frame. The surgeon states that the patient exhibits diastolic hypertension of 136/90 but has no known osteo- arthritic or diabetic status, or hypertension in the past. The surgeon further states that the Employee's spouse has tried numerous types of weight- reduction programs over the past 17 years without success. Additionally, the surgeon states that due to the morbid obesity and the ineffectiveness of other treatment modalities she is a definite candidate for the gastric stapling procedure.

The Employer denied the \$90.00 charge for the surgical consultation on April 10, 1992 and a \$1.00 charge on April 10, 1992 listed as miscellaneous provider, but later paid these charges. In addition, the Employer denied the Employee's spouse's request for the gastric stapling procedure, stating the spouse failed to provide evidence which would support the existence of an underlying medical condition that would warrant this type of treatment.

The Employee requests that the Trustees determine whether or not the Employer is, in this case, required to provide benefits for the Employee's spouse's proposed gastric stapling procedure.

Dispute

Is the Employer required to provide benefits for the Employee's spouse's proposed gastric stapling?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's spouse's gastric stapling because it is a covered benefit under the terms of the Employer Benefit Plan.

Position of the Employer: The Employer is not required to provide benefits for the Employee's spouse's gastric stapling. While the Employee's spouse may meet the requirement for pathological and morbid obesity, her hypertension is borderline and there are no other medical complications involved; therefore, the medical necessity and appropriateness of the procedure have not been established.

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. 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 in pertinent part:

(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.

Q&A 81-20 states in pertinent part:

Subject: Surgical Treatment of Obesity

References: Amended 1950 & 1974 Plans & Trusts, Article III, Section A (3)(f) and A (11)(a) 25.

Question:

What conditions must be satisfied for the Plan Administrator to approve gastric or intestinal bypass surgery for the treatment of obesity?

Benefits are only provided for these two surgical procedures when all of the following conditions are satisfied:

- (1) The Beneficiary has a pathological, morbid form of severe obesity (two or more times the desirable weight);
- (2) other, more conservative therapies have been tried and proved unsuccessful; and
- (3) prior approval has been 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. Article III. A. (11) (a) 25 of the Employer Benefit Plan excludes coverage for the treatment of obesity unless the beneficiary has a pathological, morbid form of severe obesity, and prior approval is obtained from the Plan Administrator. Additionally, other forms of more conservative therapies must have been attempted and proved unsuccessful.

While the Employee's spouse appears to be over 200% of ideal body weight and therefore would satisfy the Plan definition of severe obesity, and the Employee's spouse's surgeon has noted that a variety of more conservative measures were attempted without sustained success, there is no evidence in the record to show that she exhibits other medical complications (e.g., severe hypertension, diabetes melitis, or cardiovascular problems) which would make surgery medically-necessary. The fact that the Plan Administrator refused to grant approval for the surgery is not in dispute.

In RODs 84-633 and 84-363 (copies enclosed herein) the Trustees noted that the lack of other documented medical complications constituted reasonable grounds for denial of prior approval in cases of gastric surgery for treatment of obesity.

Because the requirements for surgical coverage have not been satisfied, the Trustees conclude that the Employer's denial of prior approval for the Employee's spouse's gastric stapling is reasonable.

Opinion of the Trustees

The Employer is not required to provide benefits for the Employee's spouse's proposed gastric stapling procedure.