OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-632 - December 15, 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 health benefits coverage for inpatient psychiatric benefits under the terms of the Employer Benefit Plan.

Background Facts

On September 18, 1991 the Employee's 16-year-old daughter was admitted to an inpatient psychiatric program at a hospital located approximately two hours from their home. The admitting diagnoses were "major depression, single episode, severe; family conflict; oppositional defiant disorder; and alcohol abuse". During the hospitalization she received both group and individual adolescent therapy on a daily basis, and family therapy on three occasions. The Employee's daughter was discharged on October 18, 1991 with orders to continue her therapy on an outpatient basis.

The bills totalled $28,320, which included $5,345 for professional services and $22,975 in hospital charges. The Employer denied all charges because the confinement was deemed not medically necessary, because the Employee's daughter did not meet all the Employer's criteria necessary for inpatient mental health hospitalization. The four most prominent criteria the Employer cited were: 1) failure of outpatient treatment, 2) danger to self or others, 3) patient is psychotic or unable to care for himself or herself, 4) the existence of other organic medical conditions which would require treatment in and of themselves when complicating the mental and nervous condition.

Based on the Employee's appeal, the medical records, as well as letters from the attending physician, were reviewed twice by the Employer's claims administrator and both reviews upheld the original denial.

The Employer contends that the services could have been performed at a lower level of care, such as a structured shelter or treatment foster home, and in closer proximity to the Employee's home. The Employee's daughter's attending physician stated in a letter dated July

15, 1992 that there were no appropriate alternative treatment facilities in the rural area where the Employee lived. In response to the physician's letter, the Employer enclosed a letter from a local mental health center stating that alternative treatment facilities recommended by the Employer's claims administrator were indeed available to the Employee's daughter within a three to five mile radius of her home.

The Employer has stated that it encouraged the Employee to file this ROD, has offered to hold the Employee harmless in this dispute, provide legal counsel to the family and plans further actions in the case.

Dispute

Is the Employer required to provide benefits for the Employee's daughter's hospitalization from September 18, 1991 through October 18, 1991?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's daughter's hospitalization because the Plan covers 30 days of inpatient treatment for mental and nervous disorders.

Position of the Employer: The Employer is not required to provide benefits for the Employee's daughter's inpatient confinement because it was not medically necessary given the diagnoses and complaints of the Employee's daughter. Additionally, treatment could have been rendered in a different setting, at a lower level of care, without compromising the quality of the treatment.

Pertinent Provisions

The Introduction to Article III 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.(1)(e) states:

> (e) Mental Illness

Benefits are provided for up to a maximum of 30 days for a Beneficiary who is confined for mental illness in a hospital by a licensed psychiatrist. When medically necessary, hospitalization may be extended for a maximum of 30 additional days for confinements for an acute (short-term) mental illness, per episode of acute illness. (More than 90 days of confinement for mental illness over a two-year period, (dating from the first day of hospital confinement, even if the first day of confinement occurred during a prior Wage Agreement) is deemed for purposes of this Plan to be a chronic (long-term) mental problem for which the Plan will not provide inpatient hospital benefits.

Article III.A.(3)(g) states:

(g) Inhospital Physicians' Visits

If a Beneficiary is confined as an inpatient in a hospital because of an illness or injury, benefits are provided for inhospital visits by the physician in charge of the case. Such benefits will also be provided concurrently with benefits for surgical, obstetrical and radiation therapy services when the Beneficiary has a separate and complicated condition, the treatment of which requires skills not possessed by the physician who is rendering the surgical, obstetrical or radiation therapy services.

Article III.A.(10)(g)3. states:

(g) Explanation of Benefits (EOB), Cost Containment and Hold Harmless

3. The Employer and the UMWA agree that the excessive charges and escalating health costs are a joint problem requiring a mutual effort for solution. In any case in which a provider attempts to collect excessive charges or charges for services not medically necessary, as defined in the Plan, from a Beneficiary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the provider. Whether the Plan Administrator or his agent negotiates a resolution of a matter or defends a legal action on a Beneficiary's behalf, the Beneficiary shall not be responsible for any legal fees, settlements, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided under the Plan. The Plan Administrator or his agent shall have sole control over the conduct of the defense, including the determination of whether the claim should be settled or an adverse determination should be appealed.

Question and Answer ("Q&A") #81-6, states in pertinent part:

Question:

The inpatient hospital benefit for mental illness limits the number of covered days as follows:

> Benefits are provided for up to a maximum of 30 days for a Beneficiary who is confined for mental illness in a hospital by a licensed psychiatrist. Subject to the approval by the Trustees, hospitalization may be extended for a maximum of 30 additional days for confinements for an acute (short-term) mental illness, per episode of acute illness. (More than 90 days of confinement for mental illness over a two-year period (dating from the first day of hospital confinement is deemed for purposes of the Plan to be a chronic (long-term) mental problem for which the Trustees will not provide inpatient hospital benefits.)

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are 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. The Introduction further states that 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 the Plan.

Article III. A. (1)(e) of the Plan states that benefits are provided for a Beneficiary who is confined for mental illness in a hospital by a licensed psychiatrist for up to a maximum of 30 days. It further states that, when medically necessary, hospitalization for an acute (short-term) mental illness may be extended for a maximum of 30 additional days per episode of acute illness. Article III.A.(3)(g) provides benefits for in-hospital physician's visits by the attending physician in charge of the case.

In this case, the Employee's daughter was hospitalized for 30 days beginning on September 18, 1991. The admitting diagnoses were major depression, single episode, severe; family conflict; oppositional defiant disorder; and alcohol abuse. Although Article III.A.(1)(e) of the Employer Benefit Plan provides benefits for 30 days of inpatient care, the hospitalization must be medically necessary for the care and treatment of a mental illness.

The Employer's claims administrator denied the charges for the hospital-ization as well as the physician's charges in connection with the hospitalization, because they were not medically necessary. The claims administrator's review panel stated that the same care could have been rendered at a lower level. In this instance, the panel stated that a more appropriate setting for the Employee's daughter would have been a structured shelter or a treatment foster home. A Funds' medical consultant has reviewed the medical record in this case and has stated that the

file contained insufficient medical documentation of the medical necessity for an acute psychiatric admission. He further stated that the record did indicate that the Employee's daughter needed professional evaluation, treatment and follow-up care, all of which could have been provided in alternative treatment setting. The consultant noted that the July 15, 1992 letter from the Employee's daughter's attending physician contains several inconsistencies with his own notes and evaluations, and were not supported by the inpatient medical record. The consultant is

of the opinion that the patient did not require acute psychiatric hospitalization on September 18, 1991 as she was not suicidal, was not a danger to herself or others, was not acutely psychotic, and was not suffering from substance abuse, either chronic or acute. Additionally, the consultant is of the opinion that the patient had no medical problems that required hospitalization and her history of a poor diet had not produced any abnormal laboratory values.
Therefore, the Trustees conclude that the Employee's daughter's inpatient confinement of September 18, 1991 through October 18, 1991 was not medically necessary.

Article III.A.(10)(g) 3., the "hold harmless" provision, states that in any case where a provider attempts to collect excessive charges or charges for services which are not medically necessary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the provider. Whether the Plan Administrator or his agent negotiates a resolution of a matter or defends a legal action on a Beneficiary's behalf, the Beneficiary shall not be responsible for any legal fees, settlements, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided under the Plan. Since the charges in this case were for treatment that was not medically necessary, the Trustees find that the Employer is required to hold the Employee harmless for charges in connection with the Employee's daughter's hospitalization of September 18, 1991 through October 18, 1991.

Opinion of the Trustees

The Employer is not required to provide benefits for the Employee's daughter's inpatient hospital confinement of September 18, 1991 through October 18, 1991. The Employer is, however, required to hold the Employee harmless in any attempts the providers may make to collect the debt.