

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-643 - July 30, 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 routine testing under the terms of the Employer Benefit Plan.

Background Facts

In April, 1991 the Employee sought treatment from his physician for moles. At that time the Employee's physician ordered a chest x-ray and electrocardiogram to be performed on the Employee. The tests were performed in the outpatient testing department of a local hospital on May 4, 1991. The Employee's physician, in a letter dated November 15, 1991, stated that the testing had been ordered because the Employee was a heavy smoker, had a family history of heart disease at young ages, and was experiencing a cough. The physician states that the testing was not done as part of a routine screening.

The Employer's claims administrator denied benefits for these charges stating that they were performed in conjunction with routine screening, and that the Employee did not have a definite condition which would necessitate this testing as is required under Article III.A.(3)(j) of the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits for the Employees chest x-ray and electrocardiogram performed on May 4, 1991?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the chest x-ray and electrocardiogram performed on May 4, 1991 because the tests were ordered by the Employee's physician and were medically necessary given the Employee's family history of heart disease, and the fact that the Employee was a heavy smoker and was experiencing a cough.

Position of the Employer: The Employer is not required to provide benefits for the x-ray and electrocardiogram performed on the Employee on May 4, 1991 because it was not performed to diagnose or treat a definite condition, illness or injury and therefore it is not a covered benefit under the Employer Benefit Plan. Additionally, the diagnosis supplied by the hospital was for a "General Medical Examination; Routine."

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan provides 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. (3)(j) and (3)(o) 2. of the Employer Benefit Plan states:

(3) Physicians' Services and Other Primary Care

(j) Laboratory Tests and X-rays

Benefits will be provided for laboratory tests and x-rays performed in a licensed laboratory when ordered by a physician for diagnosis or treatment of a definite condition, illness or injury.

Such benefits will not cover laboratory tests and x-rays ordered in connection with a routine physical examination, unless the examination is considered medically necessary by a physician.

(o) Primary Medical Care - Miscellaneous

2. Benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

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

(10) General Provisions

(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, judgements or other expenses in connection with the case, but may be liable for any services of the provider which are not provided for 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.

Discussion

The Introduction to Article III of the Employer Benefit Plan limits covered services to those 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 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 this Plan. Under Article III. A. (3)(j) of the Plan, benefits are provided for laboratory tests and x-rays when ordered by a physician for diagnosis or treatment of a definite condition, illness or injury. Under Article III. A. (3)(o)2. of the Plan, benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

In this case, the Employee sought medical evaluation and treatment for a mole. The physician has stated that he ordered the chest x-ray and electrocardiogram because the Employee's family had a history of heart disease at young ages, as well as the fact that the Employee was a heavy smoker and, at the time of the tests, had a cough. The hospital bill stated the diagnosis as, "General Medical Examination: Routine".

In ROD No. 88-349 (copy enclosed herein) the Trustees held that a screening examination, in the absence of a specific complaint, was not medically indicated or covered under the terms of the Employer Benefit Plan. Therefore, the Trustees conclude that since there was no specific diagnosis indicating the need for the Employee's tests, the chest x-ray and electrocardiogram would not be considered eligible benefits under the terms of the Employer Benefit Plan.

Article III. A. (10)(g) 3., known as the "hold harmless" section of the Plan, provides that the Employer shall attempt to negotiate with or defend a Beneficiary against a provider who seek to collect charges for services not medically necessary. In this case, since the x-ray and

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electrocardiogram have been determined not medically necessary for the Beneficiary considering the diagnosis, the Employer is required to hold the Employee harmless.

Opinion of the Trustees

The Employer is not required to provide benefits for the chest x-ray and electrocardiogram performed on the Employee on May 4, 1991, but is required to hold the Employee harmless.