

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-691 - July 8, 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 an electric breast pump under the terms of the Employer Benefit Plan.

Background Facts

On November 3, 1992 the Employee's spouse purchased an electric breast pump for \$595.00 to assist her in the expression of breast milk. In discussions before the purchase, the Employer stated it considered the breast pump a convenience item and not eligible for benefits under the Employer Benefit Plan, citing ROD 84-537.

The Employer's claims administrator denied payment for the pump, stating, "durable medical equipment supplied for aesthetic or convenience reasons is not covered." The Employer further stated that the attending physician advised that the patient had requested the breast pump for convenience reasons. The physician's statement of medical necessity noted only that the breast pump was to be used for frequent expression of breast milk.

Dispute

Is the Employer required to provide benefits for the Employee's spouse's purchase of a breast pump?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's spouse's purchase of a breast pump because it is considered durable medical equipment and should be covered under the terms of the Employer Benefit Plan. Additionally, the Employee's spouse's physician prescribed the breast pump, therefore it should be considered medically necessary.

Position of the Employer: The Employer is not required to provide benefits for the Employee's spouse's purchase of a breast pump since it is primarily used for convenience and not for a medical condition. Furthermore, the physician's statement does not contain any information regarding the medical necessity for the breast pump. The provider's billing indicates that the Employee's spouse stated that she desired the pump be purchased rather than rented because she would be having additional children so that in the long run it would be cheaper for the Employer to purchase the pump.

Pertinent Provisions

Article III. A. (6) (d) of the 1984 Employer Benefit Plan states:

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q and A #81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans and Trusts, Article III, Sections A (6) (d) and (e), and A (7) (a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

- A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:
1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheel chairs.

- C. Items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits. Examples of such items are: ordinary support (panty] hose, garter belts, disposable paper cups or towels, cotton balls, cotton swabs, bandaids, exercise equipment, and foot pads for bunions or calluses.

Discussion

Article III. A. (6) (d) of the Employer Benefit Plan provides benefits for medical equipment suitable for home use when determined to be medically necessary by a physician. Q&A 81-38 states that covered equipment includes "Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home." An electric breast pump meets these requirements. Whether the equipment in question is medically necessary for the treatment of an illness or injury is determined by the particular circumstances of each case.

In this instance, the Employee was told prior to the purchase of the breast pump that it would not be eligible for benefits because it was primarily a convenience item. The physician's statement of medical necessity only stated that the pump would be used for frequent expressions of breast milk. The physician also stated that the Employee's spouse had requested the pump for convenience reasons.

In ROD 84-537 (copy enclosed herein) the Trustees concluded that an electric breast pump was not a covered benefit, noting that breast milk could have been collected using a less costly manual pump or by manual expression. Therefore, in this case, the Trustees conclude that the Employer is not required to provide benefits for the purchase of the breast pump.

Opinion of the Trustees

The Employer is not required to provide benefits for the purchase of a breast pump for use by the Employee's spouse.