
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-704 - November 18, 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 hearing aids under the terms of the Employer Benefit Plan.

Background Facts

The Employer changed its procedures for providing health insurance coverage for hearing tests and hearing aids, effective June 1, 1992. By letter, dated May 26, 1992, the Employer informed Employees, Retirees, and Surviving Spouses that hearing aid tests and hearing aids must be obtained from a participating vendor selected by the Employer.

On October 6, 1992, the Employee underwent an auditory examination at a clinic. During the examination, it was determined that he had suffered a hearing loss in both ears. On October 22, 1992, the Employee visited a hearing aid vendor associated with the clinic to have bilateral impressions for canal hearing aids taken and was fitted for binaural hearing aids.

The Employer's insurance carrier, Provident, denied benefits for the auditory exam, binaural impressions, and hearing aids, stating that the services were not covered when rendered by the type of provider utilized by the Employee. The denial was upheld by the Employer.

Dispute

Is the Employer required to provide benefits for the Employee's auditory examination on October 6, 1992 and binaural impressions taken and hearing aids purchased on October 22, 1992?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's auditory examination, binaural impressions, and hearing aids.

Position of the Employer: The Employer is not required to provide benefits for the Employee's auditory examination, binaural impressions, and hearing aids because the Employee did not utilize the participating hearing aid vendor selected by the Employer in accordance with Article III. A. (7)(d) and (10)(b) of the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (3)(o)2. of the Employer Benefit Plan states:

(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. (7)(d) states in pertinent part:

(7) Other Benefits

(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....

Article III. A. (10)(b) states in pertinent part:

(10) General Provisions

(b) Administration

_____The Plan Administrator is authorized to promulgate rules and regulations to implement and administer the Plan, and such rules and regulations shall be binding upon all persons dealing with the Beneficiaries claiming benefits under this Plan....

Discussion

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Article III. A. (3)(o)2. of the Employer Benefit Plan provides benefits for examinations for deafness. Article III. A. (7)(d) of the Plan provides benefits for hearing aids recommended by a licensed otologist or otolaryngologist and a certified audiologist and when purchased from a participating vendor. Article III. A. (10)(b) provides for the establishment of reasonable procedures necessary to implement and administer the Plan. If the procedures are reasonable and effectively communicated to the Employees, the Trustees have found them to be binding. In this case, the record establishes that the Employer's requirement to obtain hearing aids from a participating vendor was reasonable and clearly communicated to Employees.

The Employee's hearing aid examination occurred on October 6, 1992. He had binaural impressions taken and purchased his hearing aids on October 22, 1992 from a non-participating vendor. Because the Employee failed to follow the Employer's clearly established claims procedures for obtaining hearing aids, the Trustees conclude that the Employer is not required to provide benefits for the binaural hearing aids purchased by the Employee and the associated impressions taken on October 22, 1992. However, the Employer Benefit Plan does not state that hearing examinations must be conducted by participating hearing aid vendors. Therefore, the Employer's requirement that beneficiaries receive auditory examinations from its participating vendor is not authorized by the Employer Benefit Plan and the Trustees conclude that the Employer is required to provide health benefits for the Employee's auditory examination on October 6, 1992.

Opinion of the Trustees

The Employer is required to provide benefits for the Employee's auditory examination on October 6, 1992, but is not required to provide benefits for the binaural impressions taken or the hearing aids purchased on October 22, 1992.