
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-719 - February 16, 1995

Trustees: Thomas F. Connors, Michael H. Holland, Marty D. Hudson and
Robert T. Wallace.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage for emergency room care under the terms of the Employer Benefit Plan.

Background Facts

On May 28, 1992 at 8:40 a.m., the Employee's son sought medical evaluation and treatment at a local hospital emergency room. The emergency room records show that the patient complained about a cough and sinus congestion which had been present since the previous evening, and of possible insect bites on the left thigh. The record further states that the Employee's son was examined, sinus X-rays were taken, and he was discharged with two prescriptions and orders to measure fluid intake and output.

The Employee states that his son's personal physician was out of town and that the emergency room was the only place available to take his son for treatment. The Employer denied the charges for the use of the emergency room, stating that the Employee's son's symptoms were not acute and did not constitute a medical emergency and therefore, did not warrant emergency medical treatment. The Employer further stated that the care could have been provided in an alternative setting with equal efficacy and without compromising the care of the patient.

Dispute

Is the Employer required to provide benefits for the Employee's son's use of the emergency room on May 28, 1992? Or, is the Employer required to hold the Employee harmless?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's son's use of the emergency room on May 28, 1992, because the Employee's son was sick and needed medical attention and his family physician was out of town. If the Employer is not required to provide benefits for the emergency room then the Employer should hold the Employee harmless.

Position of the Employer: The Employer is not required to provide benefits for the Employee's son's use of the emergency room because care could have been rendered at a lower level with equal efficacy, and because the Employee's son's symptoms were not acute and thereby, did not require emergency care. The use of "hold harmless" is not appropriate in this instance.

Pertinent Provisions

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

(2) Outpatient Hospital Benefits

(a) Emergency Medical and Accident Cases

Benefits are provided for a Beneficiary who receives emergency medical treatment or medical treatment of an injury as the result of an accident, provided such emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of the accident.

Article III.A.(10)(g)3. states in pertinent part:

(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....

Discussion

Article III.A.(2)(a) of the Employer Benefit Plan provides that emergency medical treatment is a covered benefit when it is rendered within 48 hours following the onset of acute medical symptoms.

The emergency medical record indicates that the patient had a cough and sinus congestion since the night prior to the visit. A Funds' medical consultant has reviewed the information available in this case and has advised that there is no indication of acute medical symptoms, and that the physical examination was negative for any acute or serious medical illness. Because the Employee's son's symptoms were not acute, warranting emergency treatment, nor consisted of continuing symptoms that had become acute within 48 hours of the emergency room visit, the Trustees conclude that the Employer is not required to provide benefits for the emergency room

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charge resulting from the Employee's son's evaluation and treatment on May 28, 1992. The Employer is required, however, to provide benefits for any physician's charges, or laboratory or X-ray charges that may be associated with the emergency room visit.

The Employee has raised the issue of hold harmless. Article III. A. (10)(g)3. of the Plan, the "hold harmless" provision, provides that the Plan Administrator shall attempt to negotiate with or defend a Beneficiary against providers who seek to collect charges for services not medically necessary.

In ROD 88-609 (copy enclosed herein) the Trustees decided that when an Employee made an inappropriate decision, independent of professional medical advice, to seek care in an emergency room, invoking hold harmless would amount to defending the Employee against his own actions since the emergency room cannot turn away an individual seeking care. Therefore, under facts such as these, application of hold harmless is inappropriate.

Opinion of the Trustees

The Employer is not required to provide benefits for the emergency room charges resulting from the Employee's son's evaluation and treatment on May 28, 1992, nor to implement hold harmless procedures. However, the Employer is required to provide benefits for any physician's professional charges and any X-ray or laboratory charges incurred in connection with this emergency room visit.