
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-743 - May 4, 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 19, 1992, the Employee sought treatment at a local hospital emergency room complaining of "sinus problems", fever, cough and congestion, beginning four to five days prior to the visit. The emergency room physician's dictated report indicates that the Employee also reported experiencing facial pressure and nasal drainage for five days.

The emergency room physician diagnosed the condition as sinusitis. The Employee was prescribed Entex-LA for congestion, Ceclor 500 mg. (an antibiotic), and a Vancenase Nasal Inhaler. He was instructed to return to the emergency room in 48 hours if he was no better.

The Employer provided benefits for the emergency room physician's charges, but denied the emergency room facility charge and the pharmacy charge as not having been incurred within 48 hours of the onset of acute medical symptoms.

Dispute

Is the Employer required to provide benefits for the emergency room charge and the pharmacy charge resulting from the Employee's evaluation and treatment on May 19, 1992? If not, is the Employer required to hold the Employee harmless for these charges?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the emergency room and pharmacy charges incurred on May 19, 1992, because the Employee awakened that day with acute medical symptoms necessitating emergency care and treatment.

Position of the Employer: The Employer is not required to provide benefits for the emergency room and pharmacy charges incurred by the Employee on May 19, 1992, because the Employee's condition was not a medical emergency requiring emergency medical care, and because the Employee himself stated that his symptoms had begun four to five days prior to the emergency room visit. Also, the use of "hold harmless" procedures 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:

3. The Employer and the UMWA agree that 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 record indicates that the patient complained of sinus problems with fever, congestion, and cough beginning 4 or 5 days prior to the emergency room visit. A Funds' medical consultant has reviewed the information presented in this case, including the dictated notes of the emergency room physician, and has advised that the patient's symptoms had been present for 4-5 days with no documentation of new symptoms or acute worsening of the symptoms associated with sinusitis. Additionally, the consultant noted that there was no

documentation of a fever, vomiting, diarrhea, or dizziness as stated by the Employee. Because the Employee did not have acute medical symptoms that warranted emergency medical treatment, or continuing symptoms that became 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 charge resulting from the Employee's evaluation and treatment on May 19, 1992, but is required to provide benefits for the pharmacy charge. The Employer has provided benefits for the emergency room physician's charge associated with the visit.

Article III. A. (10)(g) 3., 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 charge resulting from the Employee's evaluation and treatment on May 19, 1992, nor to implement hold harmless procedures, but is required to provide benefits for the pharmacy charge incurred on that date.