

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-793 - June 23, 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 charges under the terms of the Employer Benefit Plan.

Background Facts

On July 22, 1993, the Employee's spouse sought evaluation and treatment at a local hospital emergency room, complaining of severe pain in her right shoulder. The emergency department record states that the pain had been present for two months prior to the emergency room visit. Additionally, the record states that the Employee's spouse had experienced spasms in her shoulder in the past which were treated successfully with injections.

The emergency room physician diagnosed the Employee's spouse's condition as myositis (muscle inflammation) and treated it with an intramuscular injection of Decadron 10 mg. (an adrenocortical steroid) and Mepergan 2 cc. (a narcotic pain medication). The emergency room physician further prescribed Soma (a muscle relaxant), Lorcet Plus (a narcotic pain medication), and a Medrol Dosepak (an adrenocortical steroid), and referred the Employee's spouse to a local physician for follow-up care. The spouse was advised to have her shoulder re-checked if she was not better in a couple of days.

The Employer paid the charge for the emergency room physician, but denied the emergency room facility charge, stating that emergency care was not necessary. In addition to claiming benefits for the visit, the Employee filed a "hold harmless" form covering the charges. The Employer, in its response, stated that the use of the "hold harmless" provision of the Employer Benefit Plan was not appropriate in this instance.

The Employer was signatory to the 1988 National Bituminous Coal Wage Agreement (Wage Agreement) which terminated February 1, 1993. The Employer signed an Interim Agreement extending the terms and conditions of employment of the 1988 Wage Agreement from February 2, 1993 to the effective date of a successor agreement on December 16, 1994.

Dispute

Is the Employer required to provide benefits for the emergency room charges incurred as a result of the Employee's spouse's evaluation and treatment on July 22, 1993? 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 Employee's spouse's emergency room charges because she was experiencing pain in her left shoulder and arm, and there was concern that she may have been having a heart attack. And, if the Employer will not provide benefits for the emergency room charges, the Employee should be held harmless in accordance with Article III.A.(10)(g) 3.

Position of the Employer: The Employer is not required to provide benefits for the emergency room charges incurred as a result of the Employee's spouse's evaluation and treatment on July 22, 1993, because emergency treatment was not necessary as the symptoms had been present for two months prior to the emergency room visit. Additionally, the Employee's request to invoke the Plan's hold harmless provision would not be appropriate in this case.

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:

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. 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, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided 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 Employer was signatory to the 1988 Wage Agreement. The Employer signed an Interim Agreement extending the terms and conditions of employment of the 1988 Wage Agreement from February 2, 1993 to the effective date of a successor agreement on December 16, 1993. This dispute arose over an event that took place during the period covered by the Interim Agreement.

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 department medical record indicates that the Employee's spouse's symptoms had been present for two months prior to the emergency room visit. A Funds' medical consultant has reviewed the information present in this case and has advised that there was no medical documentation in the emergency department record of a recent worsening of the patient's symptoms, or of new symptoms occurring within 48 hours of the visit. Because the Employee's spouse 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 consultant is of the opinion that the Employee's spouse's use of the emergency room on July 22, 1993, would not be considered medically appropriate under the terms of the Employer Benefit Plan. Therefore, the Trustees conclude that the Employer is not required to provide benefits for the emergency room charge resulting from the Employee's spouse's evaluation and treatment on July 22, 1993.

The Employee has raised the issue of hold harmless. In ROD 88-609 (copy enclosed herein), the Trustees concluded that invoking hold harmless in the case of an initial emergency room visit would amount to defending the Beneficiary against the consequences of his/her own actions, since the decision to use the emergency room was the patient's own, and that the available evidence showed that the use of the emergency room was not appropriate to the patient's condition at the time. Since the facts and circumstances in these two cases are essentially the same, the Trustees conclude that the invoking of the Plan's hold harmless provision would not be appropriate in this case.

Opinion of the Trustees

Opinion of Trustees
Resolution of Dispute
Case No. 88-793
Page 4

The Employer is not required to provide benefits for the emergency room charge resulting from the Employee's spouse's evaluation and treatment on July 22, 1993, nor is the Employer required to implement hold harmless procedures.