

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-794 - 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

At 9:06 a.m. on Wednesday, February 17, 1993, the Employee's daughter, who was 18 years old and six months pregnant, sought evaluation and treatment at a local hospital emergency room, complaining of fever, weakness, sore throat and a cough. She had been directed there by her physician.

The emergency room physician diagnosed the Employee's daughter's condition as acute pharyngitis, and administered intramuscular injections of Aristocort and Decadron. The Employee's daughter was given a prescription for Vicodin (an analgesic pain medication), instructed to drink plenty of fluids, and discharged, to be followed by her private physician.

The Employer provided benefits for the emergency room physician's charge, but denied the emergency room facility and pharmacy charges, stating that the care could have been rendered in a private physician's office.

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 facility and pharmacy charges incurred as a result of the Employee's daughter's evaluation and treatment on February 17, 1993? And, if not, is the Employer required to hold the Employee harmless for those charges?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the charges incurred by the Employee's daughter for evaluation and treatment in the emergency room on February 17, 1993, because the daughter was experiencing chest pains, and had been directed by her primary care physician to use the emergency room. If the services were not medically necessary, the Employee should be held harmless.

Position of the Employer: The Employer is not required to provide benefits for the charges incurred as a result of Employee's daughter's evaluation and treatment in the emergency room on February 17, 1993, because her symptoms were not acute, and she could have been seen in a private physician's office without compromising the quality of care. Additionally, the use of hold harmless procedures is not appropriate in this instance.

Pertinent Provisions

Article III.A.(2)(a) 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 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. . . .

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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 room medical record indicates that the Employee's daughter had a fever, weakness, sore throat and a cough starting the day before. A Funds' medical consultant has reviewed the information available in this case and notes that the chart does not reflect any serious medical complaints and that there were no acute medical conditions found on examination. The consultant further notes that the patient presented at the emergency room on a Wednesday at 9:06 a.m. The consultant states that in his opinion the patient could have been seen in a less acute setting, and the use of the emergency room in this case was not medically appropriate.

Consistent with the provisions of the Employer Benefit Plan, the Trustees conclude that the Employer is not required to provide benefits for the emergency room charge resulting from the Employee's daughter's evaluation and treatment on February 17, 1993. Since the medications would have been provided in any setting, the Employer is required to provide benefits for these.

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 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.

The Employee has also raised the issue of the beneficiary being directed to the emergency room by her regular physician. In ROD 88-532 (copy enclosed herein), the Trustees decided that the fact that a doctor's office referred the patient to the emergency room did not override the requirements of the Plan.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the emergency room facility charges resulting from the Employee's daughter's evaluation and treatment on February 17, 1993, nor to implement hold harmless

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procedures. The Employer is, however, required to provide benefits for medications dispensed in connection with the emergency room visit.