

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-816 - May 3, 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 for for foot surgery under the terms of the Employer Benefit Plan.

Background Facts

On December 23, 1992 the Employee's spouse underwent foot surgery to remove a callus and a plantar wart from her left fifth toe. The procedure was done on an outpatient basis.

The Employer denied the charges for the surgical procedure, stating that, according to the operative report, the surgery was performed to remove calluses and that this type of procedure is not included under the procedures covered under Article III.A.(3)(n) of the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits for the Employee's spouse's foot surgery performed on December 22, 1992?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's spouse's foot surgery because it is a covered benefit under the Employer Benefit Plan and was not performed for cosmetic or routine reasons, nor was it to remove a callus, bunion or corn.

Position of the Employer: The Employer is not required to provide benefits for the Employee's spouse's foot surgery because the surgery was performed to remove calluses and this type of procedure is not listed among the covered procedures under Article III.A.(3)(n) of the Employer Benefit Plan.

Pertinent Provisions

Article III.A.(3)(a) and (n) of the Employer Benefit Plan states:

(3) Physicians' Services and Other Primary Care

_____ (a) Surgical Benefits

Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedure (including the usual and necessary post-operative care) for treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

(n) Primary Care - Podiatrists' Services

_____ Benefits are provided for minor surgery rendered by a qualified licensed podiatrist. Routine care of the feet such as trimming of nails, the treatment of corns, bunions (except capsular or bone surgery therefor) and calluses is excluded.

Discussion

Article III.A.(3)(a) provides surgical benefits essential to a Beneficiary's care including operative and cutting procedures (including the usual and necessary post-operative care) for treatment of illnesses, injuries, fractures or dislocations, which are performed in or out of a hospital by a physician. Article III.A.(3)(n) provides benefits for minor surgery when performed by a qualified licensed podiatrist. However, it excludes routine care of the feet such as trimming of nails, the treatment of corns, bunions (except capsular or bone surgery therefor) and calluses.

A Funds' medical consultant has reviewed this file to include medical reports from the Employee's spouse's attending physician dated December 22, 1992, and January 6, 1993. The consultant notes that the patient had a plantar wart and a callus surgically removed after more conservative treatment had proved ineffective. In the consultant's opinion, the surgery was medically appropriate.

The Trustees conclude that the surgical procedures performed on the Employee's spouse on December 23, 1992, are an eligible benefit under the terms of the Employer Benefit Plan.

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The Employer is required to provide benefits for the Employee's spouse's surgical procedures performed on December 23, 1992.