

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-826 - August 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 coverage for sclerosing injections under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse had venous varicosities for which she had received sclerosing injections in April, 1990. During April, 1993, she again received sclerosing injection treatments to various areas of her legs afflicted with "spider" or "superficial" varicosities. The patient states that the varicosities gave her pain and that the sclerosing injections provided relief. The Employer denied benefits for these injections, stating that the treatment was cosmetic.

The Employer was signatory to the National Bituminous Coal Wage Agreement (Wage Agreement) of 1988 which expired on February 1, 1993. On March 1, 1993, the Employer and the UMWA agreed to extend the terms of the 1988 Wage Agreement from February 2, 1993 until May 3, 1993.

Dispute

It the Employer required to provide benefits for the sclerosing injections given in April, 1993?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the injections because they have been covered in the past and were medically necessary to relieve the Employee's spouse's pain.

Position of the Employer: The Employer is not required to provide benefits for the injections because they were not medically necessary and were primarily performed for cosmetic reasons.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states, in part:

ARTICLE III BENEFITS

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan

Article III. A. (3) (a) and (p) 9. state, in part:

Article III Benefits

A. Health Benefits

(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 procedures (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.

(p) Services Not Covered

9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care. The Introduction further states that the fact that a level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under the Plan.

Article III. A. (3) (a) states that surgical services must be essential to a Beneficiary's care.

A Funds' medical consultant has reviewed the information submitted and has concluded that the lesions were spider veins and superficial varicose veins. He determined that there is no indication in the medical records provided that these lesions were symptomatic or required treatment to cure or treat medical problems. Since the medical records provided do not address the patient's pain or limitation of activity, the consultant's opinion is that the need for these treatments as an essential part of her care has not been established. In ROD 88-604 (copy enclosed herein), it was noted that without appropriate medical documentation, the Funds' consultant was unable to establish the medical necessity of such treatment. Therefore, the Trustees conclude that the Employer is not required to provide benefits for the sclerosing injections.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the sclerosing injections given in April, 1993.