
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-847 - March 17, 2004

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson and
Elliot Segal.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage for outpatient treatment of alcoholism under the terms of the Employer Benefit Plan.

Background Facts

In December 1992, the Employee was an inpatient at a facility approved by the Employer for the treatment of alcoholism, under the Employer's substance abuse program. Benefits for the inpatient treatment are not in dispute. After his discharge, he was to continue his rehabilitation treatment as an outpatient at the same facility. He contacted the Employer to find out whether he could continue the outpatient treatment at a facility closer to his home. From here on, Employee and Employer accounts differ. The Employee states that he was given verbal approval to receive treatment at the closer facility. The Employer states that the Employee was told benefits would not be provided for the services at the closer facility because it was not an approved provider under the Employer's substance abuse program. The Employee received out-patient treatment at the closer facility from January 6, 1993 to February 2, 1993. The Employer's carrier denied benefits for the outpatient treatment.

The Employee appealed the denial to the Plan Administrator. In a letter dated October 26, 1994, the Employer advised the Employee that any Employee "who agrees to the terms" of the Employer's "substance rehabilitation program may be entitled to benefits above and beyond their standard contractual benefits. To qualify for these additional benefits, Employees in the northern West Virginia area must receive treatment" from the same facility that provided the Employee's inpatient treatment.

The Employer denied benefits for the outpatient rehabilitation therapy because the Employee had another program available and the Employer's Medical Department did not have the opportunity to determine in advance that the patient was a good candidate for rehabilitation.

Dispute

Is the Employer required to provide benefits for the Employee's outpatient rehabilitation treatment for alcoholism at the closer facility?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the outpatient alcohol rehabilitation program at the closer facility because the services were medically necessary and the use of the facility was approved by the Employer.

Position of the Employer: The Employer is not required to provide benefits for the Employee's outpatient rehabilitation program at the closer facility because the program was available at the first facility that had been approved by the Employer. Also, the Employer's Medical Department did not have an opportunity to determine that the Employee was a good candidate for rehabilitation.

Pertinent Provisions

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

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. . . .

Article III. A. (7) (f) and (10) (b) of the Employer Benefit Plan state in pertinent part:

(7) Other Benefits

(f) Outpatient Mental Health, Alcoholism and Drug Addiction

Benefits are provided for:

Psychotherapy, psychological testing, counseling, group therapy and alcoholism or drug rehabilitation programs where free care sources are not available and when determined to be medically required by a physician.

Benefits are not provided for:

1. Encounter and self-improvement group therapy.
2. Custodial care related to mental retardation and other mental deficiencies.
3. School related behavioral problems.
4. Services by private teachers.
5. Alcoholism and drug rehabilitation if an advance determination has not been made by the rehabilitation team that the Beneficiary is a good candidate for rehabilitation.
6. Alcoholism and drug rehabilitation programs not approved by Medicare.

* * *

(10) General Provisions

(b) Administration

The Plan Administrator is authorized to promulgate rules and regulations to implement and administer the Plan, and such rules and regulations shall be binding upon all persons dealing with the Beneficiaries claiming benefits under this Plan. . . .

Discussion

The Introduction to Article III of the Employer Benefit Plan limits covered services to those that are reasonable and necessary for the diagnosis or treatment of an illness or injury and are given at the appropriate level of care.

Article III. A. (7) (f) provides benefits for certain outpatient rehabilitation programs within stated limitations. The Employee has submitted documentation to support the lack of available free care. The Employer's substance abuse program uses facilities and programs it has approved to provide inpatient and outpatient care for substance abuse and, in conjunction with its Medical Department, to determine whether a patient is a good candidate for rehabilitation. It is agreed by both sides that the Employee was expected to continue his rehabilitation as an outpatient at the facility where he received inpatient detoxification; therefore, it is evident that its rehabilitation team either concluded, or did not dispute, that he was a good candidate for rehabilitation.

Article III. A. (10) (b) authorizes the Plan Administrator to promulgate rules and regulations to implement and administer the Plan to assure consistent application of the Plan provisions. The Employer has provided documentation dating back to 1988 of a program to treat its Employees for alcohol and substance abuse, that it states has been operating for ten years. The documentation includes information posted at mine sites, articles in the company newspaper, as well as lists of approved facilities and copies of the standard agreements to be signed by Employer's representative and Employee. The record establishes that the program has been clearly communicated.

In several RODs, (RODs 88-625 and 88-673 enclosed herein) the Trustees have decided that "[l]evels of benefits to be provided Employees, Pensioners and their dependents and survivors that are established through collective bargaining may not be unilaterally changed." In this case, the Employer has operated an alcohol and substance abuse program for many years, with a provision allowing it to specify treatment facilities and programs. This does not represent a unilateral change, since it based on signed agreements between the Employer and Employee, and thus constitutes an effective modification of the Employer Benefit Plan for this Employer and its classified Employees for these particular circumstances. Accordingly, the Employer may specify a treatment facility as part of the alcohol and substance abuse program, providing it meets appropriate licensing requirements.

The next issue is the matter of approval for the Employee to receive treatment at a facility different from the one originally specified by the Employer. The Employee maintains he was given verbal approval to switch out-patient facilities to the one closer to his home. The Employer denies this. The available evidence is in favor of the Employer, since a major component of the Employer's program involves constant monitoring of the Employee while in the program, which supports the need for an approved facility that has agreed to share information with the Employer's medical department. A change in the wording of the agreements to specify in writing the designated facility or program will clarify such an issue in the future.

The Trustees find that the provision of the Employer's alcohol and substance abuse program requiring the use of designated facilities and programs is consistent with the provisions of the Employer Benefit Plan. The Trustees further find that the Employer is not required to provide benefits for the outpatient alcohol rehabilitation treatment the Employee received at the closer facility.

Opinion of the Trustees

The provision of the Employer's alcohol and drug abuse program requiring the use of designated facilities and programs is consistent with the provisions of the Employer Benefit Plan. The Employer is not required to provide benefits for the outpatient alcohol rehabilitation treatment

the Employee received at the closer facility.