
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 93-008 - May 9, 1996

Trustees: Thomas F. Connors, Michael H. Holland, Donald E. Pierce, Jr. and Elliot A. Segal.

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

Background Facts

The Employee's spouse has end stage renal disease (ESRD) secondary to lupus glomerulonephritis. The ESRD condition requires that she receive renal dialysis treatments three times per week to sustain her life. A complication of her lupus is arthralgia (joint pain) which makes riding in an automobile extremely painful. Driving an automobile is virtually impossible, not only because of the arthralgia, but also because she is often weak and short of breath.

From November 1990 through mid-April, 1993, the Employee's spouse was transported by ambulance three times a week between her home and the dialysis center, and the Employer provided benefits for this transportation. On April 19, 1993, the medical social worker assigned to the Employee's Spouse's case was advised by the Employer's carrier that benefits were being cancelled for ambulance transport, and that insurance also would not pay for any transport as long as the beneficiary could walk.

The Employee has requested reimbursement for automobile mileage as travel expenses but the Employer has refused to provide benefits. Ambulance transportation charges from November 1990 through mid-April 1993 are not at issue.

Dispute

Is the Employer required to provide benefits for the Employee's Spouse's travel expenses beyond mid-April 1993?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for automobile mileage as travel expenses because these are covered under the Employer Benefit Plan.

Position of the Employer: The Employer is not required to provide benefits for the travel expenses because no prior approval was obtained and the facility would be considered in-the-area of the Employer's health care center.

Pertinent Provisions

Article III.A.(7)(e)2. of the Employer Benefit Plan states:

(7) Other Benefits

(e) Ambulance and Other Transportation

Benefits are provided for ambulance transportation to or from a hospital, clinic, medical center, physician's office, or skilled nursing care facility, when considered medically necessary by a physician.

With prior approval from the Plan Administrator benefits will also be provided for other transportation subject to the following conditions:

2. If the Beneficiary requires frequent transportation between the Beneficiary's home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment which would otherwise require hospitalization, benefits will be provided for such transportation only when the Beneficiary cannot receive the needed care without such transportation.

Discussion

Article III. A. (7) (e) 2. provides benefits for travel expenses between the Beneficiary's home and a hospital or clinic, with prior approval from the Plan Administrator, when the Beneficiary requires transportation for treatment that would otherwise require hospitalization, and cannot receive that care without such transportation.

The Employee's Spouse requires renal dialysis to sustain her life. In securing this treatment, she used ambulance service from November 1990 through mid-April 1993 for transportation between the home and the dialysis center, approximately 75 miles away. There is no evidence that prior approval was obtained from the Plan Administrator during this period.

The Employer has provided benefits for the dialysis treatments and, until mid-April 1993, also provided benefits for ambulance transportation to the dialysis facility. At that time, the social worker was notified that the Employer Benefit Plan would not provide transportation benefits by ambulance or private car so long as the patient could walk.

The Employer has raised two issues: The lack of prior approval of the transportation request, and the distance between the dialysis center and the nearest medical facility to the Beneficiary's home, stating that the distance between the nearest medical facility and the dialysis center should be what is covered, if any transportation benefits are provided. Regarding the issue of prior approval, the Employer knowingly reimbursed the Beneficiary's travel expenses for nearly two and a half years. Under these circumstances, this action constitutes tacit approval of on-going transportation for the same service. Section (7)(e)2. provides benefits for transportation between the home and hospital or clinic, making no reference to a closer medical center.

ROD 88-241 (copy enclosed herein) also concerns a beneficiary with end-stage renal disease secondary to lupus. In that ROD, the Trustees decided that, consistent with the Employer Benefit Plan as well as Funds' policy and practice, the Employer was required to provide transportation between the home and the dialysis center at the prevailing mileage rate for private automobile, which was the lowest-cost practical transportation.

Therefore, the Trustees conclude that the Employer is required to provide benefits for the automobile mileage travel expenses incurred in transporting the Employee's Spouse between her home and the dialysis center. The Funds current reimbursement rate for Beneficiaries' use of private automobile is \$.15 per mile.

Opinion of the Trustees

The Employer is required to provide benefits for the automobile mileage travel expenses incurred in the transportation of the Employee's Spouse for her dialysis treatments.