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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-018 - July 1, 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 Jobst stockings under the terms of the Employer Benefit Plan.

Background Facts

The Employee has venous insufficiency (inadequate blood circulation) in both legs and his physician has ordered Jobst stockings to aid the return of blood to the heart, and to prevent "pooling" in his legs that could lead to the formation of clots and other medical complications.

The Employer has provided benefits for the stockings under the medical portion of the Employer Benefit Plan and the charges were applied to the \$1,000 Deductible. However, the Employee maintains that prescription drug benefits should be provided because his physician wrote a prescription for them.

Dispute

Is the Employer required to provide Prescription Drug benefits for the Employee's Jobst stockings?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits under the prescription drug portion of the Employer Benefit Plan because they were obtained with a prescription from the Employee's physician.

Position of the Employer: The Employer is not required to provide benefits under the prescription drug portion of the Employer Benefit Plan because surgical stockings are covered under the other benefits portion of the Plan.

Pertinent Provisions

Article III. A. (4) (a) of the Employer Benefit Plan states, in pertinent part:

(4) Prescription Drugs

\_\_\_\_\_ (a) Benefits Provided

Benefits are provided for insulin and prescription drugs (only those drugs which by Federal or State law require a prescription) dispensed by a licensed pharmacist and prescribed by a (i) physician for treatment or control of an illness or nonoccupational accident or (ii) licensed dentist for treatment following the performance of those oral surgical services set forth in (3)(e).

Article III. A. (4) (b) 4. states:

(4) Prescription Drugs

(b) Benefits Excluded

Benefits shall not be provided under subsection (4)(a) for the following:

4. Any medication not specifically provided for in (a) above.

Article III. A. (7) (a) 6. states:

(7) Other Benefits

\_\_\_\_\_ (a) Orthopedic and Prosthetic Devices

6. Surgical stocking (up to two pairs per prescription with no refills) when prescribed by a physician for surgical or medical conditions. The Plan will not pay Beneficiaries for support hose, garter belts, etc.

Q&A 81-46 states:

Question:

1. Are surgical stockings a covered benefit?
2. What are the guidelines for identifying surgical stockings?

Answer:

1. Yes, but only when prescribed by a physician for surgical or medical conditions.

2. Surgical support stockings (Jobst, Ted, Horn, antiembolism stockings or comparable stockings in function and quality) are prescribed by a physician for medical conditions, such as thrombophlebitis, and/or conditions resulting from surgery such as vein ligation.

Prescriptions must state diagnosis, patient's leg measurements and description of stocking. Example: above-knee length, below knee, toe out, etc.

The brand name of the surgical stockings is the criterion that determines if the stockings are covered. The name indicated on the invoice is checked against a list of brand name stockings that are covered.

Ordinary support hose are considered wearing apparel and are not covered under the Plan. Example: Support hose, panty hose.

This benefit is subject to a limitation of a maximum of two pairs per prescription with no refills.

#### Discussion

Article III A. (7) (a) 6. provides benefits for surgical support stockings when they are prescribed by a physician for a surgical or medical condition. Q&A 81-46 further describes the limitations and guidelines for this benefit. Article III A. (4) (a) and (b) restrict prescription drug benefits to those drugs which, by law, require a prescription and are dispensed by a licensed pharmacist.

Surgical support stockings do not require, by law, a prescription, nor must they be dispensed by a licensed pharmacist. The Plan's requirement that they be prescribed by a physician is to ensure that they are medically necessary for the treatment of a medical or surgical condition. Therefore, the Employer has provided benefits appropriately under the other benefits portion of the Employer Benefit Plan.

#### Opinion of the Trustees

The Employer is not required to provide benefits for the Jobst stockings under the prescription drug portion of the Employer Benefit Plan.