
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 93-023 – March 17, 2000

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

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits for tattoo removal under the terms of the Employer Benefit Plan.

Background Facts

In December 1993, the Employee's son received a tattoo on his left arm which immediately became irritated. His family physician provided treatment for an infection which included antibiotics, tetanus booster, and antibiotic ointment. Subsequently he was referred to a laser surgery specialist for consultation because the tattoo area was scarred and contained "bumps." The surgeon recommended YAG Laser removal of the tattoo to prevent skin reaction to the dye, irritation, and infection.

In a letter to the Employee dated November 18, 1994, the Employer stated that the Employee's son's surgery was a not a covered expense under the Employer Benefit Plan.

Dispute

Is the Employer required to provide benefits for the Employee's son's laser surgery?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's son's laser surgery because it was medically necessary to prevent future irritation and infection.

Position of the Employer: In correspondence to the Employee, the Respondent stated that the Employee's son's surgery was not a covered expense under the Employer Benefit Plan.

Pertinent Provisions

Article III A. (3) (a) of the Employer Benefit Plan states, in pertinent 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 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.

Article III A. (3) (p) 9. of the Employer Benefit Plan states:

(p) Services Not Covered

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

Discussion

Article III A. (3) (a) provides benefits for medically necessary surgery. Article III A. (3) (p) 9. excludes benefits for cosmetic surgery unless it pertains to surgical scars or is required to correct the results of accidental injuries or birth defects.

Although scarring was present in this case, it was not surgical scarring. A Funds' medical consultant reviewed the documentation submitted and concluded that there is not adequate documentation following the acute treatment in December 1993 to justify laser removal of the tattoo for medical reasons.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Trustees do not require the Employer to provide benefits for the Employee's son's laser surgery.