
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 93-029 - March 4, 1997

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 allergy medication under the terms of the Employer Benefit Plan and implementation of a mail-order prescription drug program.

Background Facts

The Employee maintains that the Employer is refusing to provide benefits for allergy medication as it would for other prescription drugs, thereby requiring the Employee to bear the entire cost of the medication. The Employee further suggests that the Employer institute a mail-order prescription drug program to eliminate the \$4.50 deductible for prescription medications.

The Employer maintains that it is providing benefits for prescription allergy medications that are ordered by a physician and dispensed by a licensed pharmacist. It is not, however, providing benefits for allergy medications when the physician "concocts and mixes medicinal compounds in his office."

Dispute

Is the Employer required to provide benefits for allergy medications prepared and/or administered by a physician? Is the Employer required to implement a mail-order prescription drug program?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for prescription allergy medications because these are medically necessary to treat an illness. Also, the Employer should institute a mail-order pharmacy program to preclude payment of a prescription drug deductible.

Position of the Employer: The Employer is not required to provide benefits for allergy medications prepared by a physician because no prescription is written and the medication is not dispensed by a licensed pharmacist. The Employer is not required to institute a mail-order pharmacy program.

Pertinent Provisions

Article III.A.(3)(o)2. of the Employer Benefit Plan states:

(o) Primary Medical Care - Miscellaneous

2. Benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

Article III.A.(4)(a) and (b) of the Employer Benefit Plan state 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).

. . . . Prescriptions filled by the Plan's mail order provider, if any, are not subject to the limits on quantity set forth in this paragraph.

Reasonable charges for prescription drugs or insulin are covered benefits. Reasonable charges will consist of the lesser of:

- (1) The amount actually billed per prescription or refill,
- (2) The price of the applicable generic substitution drug
- (3) The current price paid to participating pharmacies in any prescription drug program established by the Employer.

(b) Benefits Excluded

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

1. Medications dispensed in a hospital (including take-home drugs), skilled nursing facility or physician's office. (See Article III A (1)(a) and (5)(a) for benefits provided for drugs and medications during inpatient confinement in a hospital skilled nursing facility.)
2. Birth control prescriptions.
3. Prescriptions dispensed by other than a licensed pharmacist.
4. Any medication not specifically provided for in (a) above.

The National Bituminous Coal Wage Agreement of 1993, Article XX (10) Health Care: Enhanced Cost Containment Programs. d. 18. states in pertinent part:

Mail order prescription drugs, where available, will be provided at no copayment."

Discussion

Article III.A.(3)(o)2. names allergy desensitization injections as services for which benefits are to be provided. Prescription drug benefits are defined, and limited, in Article III. A. (4).

In this case, the Employer is providing benefits for prescription allergy medication when ordered by a physician and dispensed by a licensed pharmacist, in accordance with the Employer Benefit Plan. However, the Employer is not providing benefits for allergy desensitization injections when prepared or administered by a physician. This is inconsistent with the provisions of Article III.A.(3)(o)2.

The Employer has not elected to implement a mail-order pharmacy system and there is no provision in the 1993 Coal Wage Agreement or the Employer Benefit Plan that requires it to do so.

Therefore, consistent with the provisions of the Coal Wage Agreement and the Employer Benefit Plan, the Employer is required to provide benefits for allergy desensitization injections provided in a physician's office; but is not required to implement a mail-order pharmacy program.

Opinion of the Trustees

Opinion of Trustees

ROD Case No. 93-029

Page 4

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