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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-061 - April 3, 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 radial keratotomy under the terms of the Employer Benefit Plan.

Background Facts

The Employee has severe myopia (nearsightedness). In May 1994, the Employee underwent radial keratotomy (incisions in the edges of the cornea to refocus light directly on the retina) to improve his distance vision without corrective lenses. A second surgical procedure on both eyes was performed in July 1994. The record notes that the procedures were performed at the Employee's request.

The Employer has denied benefits for the surgery, stating that experimental and/or investigational services are not covered. The Employee maintains that since the surgery was performed to correct a condition and was not cosmetic, benefits should be provided under the plan.

Dispute

Is the Employer required to provide benefits for the Employee's radial keratotomy surgery?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the radial keratotomy surgery because it was not cosmetic and eye surgery is a covered benefit.

Position of the Employer: The Employer is not required to provide benefits for the radial keratotomy surgery because it is experimental and/or investigational in nature and other, less expensive, treatment is available to correct the Employee's vision.

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. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of questionable current usefulness; . . .

Article III A. (9) (c) 5. of the Employer Benefit Plan states:

(9) Vision Care Program

(c) Exclusions include:

5. experimental services or supplies;

Article III A. (11) (a) 24. of the Employer Benefit Plan states:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

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24. Charges for treatment with new technological medical devices, therapy which are experimental in nature.

Discussion

The Introduction to Article III of the Employer Benefit Plan provides benefits for medically necessary and reasonable treatment of illness or injury. Article III A. (9) (c) 5. excludes benefits

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for experimental services or supplies under the Vision Care program portion of the Plan. Article III A. (11) (a) 24. excludes benefits for devices and therapy which are experimental in nature.

The Funds does not provide benefits for keratotomy procedures, and the Medicare program continues to designate radial keratotomy as an experimental procedure. A Fund's medical consultant has reviewed this case and notes that at the time of the procedures, in 1994, that radial keratotomy was no longer considered an experimental procedure for the treatment of nearsightedness by practicing ophthalmologists. He further notes that this procedure has been largely replaced by laser keratotomy. The consultant is of the opinion that a more conservative and cost effective treatment exists in the form of prescription lenses.

According to information submitted from the Employee's physician, the Employee's vision had been previously corrected with prescription lenses and that the Employee requested the surgery. There is no indication in the documentation that the Employee was unable to wear corrective lenses or that the wearing of corrective lenses posed a danger to him while at work. Since a more conservative and cost effective treatment was available to the Employee, the Employer is not required to provide benefits for the radial keratotomy procedures. This is consistent with RODs 84-222, 88-408, 88-579 and 88-723 (copies enclosed herein).

#### Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the Employee's radial keratotomy.