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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-087 - December 1, 1997

Trustees: Michael H. Holland, Michael O. McKown, Donald E. Pierce, Jr. and  
Elliot A. Segal.

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

Background Facts

On March 5, 1997, the Employee ordered a hearing aid for which the Employer denied benefits because a participating vendor was not utilized. The Employee states he did not know he had to utilize the services of a participating vendor. The Employee also contends that there is not a participating vendor in his local geographic area. Further, since the vendor he elected to use will accept the payment of the Employer's agent as payment in full, the Employer should provide benefits in this instance.

The Employer states that a listing of participating vendors was part of the packet of information given to all employees at the beginning of the new contract. The Employer further states that there are at least two participating vendors within 35 miles of the Employee's location. In addition, the Employer states that it provides benefits to any vendor identified as a participating vendor on any Funds' listing.

Dispute

Is the Employer required to provide benefits for the hearing aid ordered by the Employee in March 1997?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the hearing aid ordered by the Employee because it is a covered service.

Position of the Employer: The Employer is not required to provide benefits for the hearing aid because it was not ordered from a participating vendor.

Pertinent Provisions

Article III. A. (7)(d) of the 1993 Employer Benefit Plan provides in pertinent part:

(d) Hearing Aids

Benefits are provided for hearing aids recommended by a licensed otologist or otolaryngologist and a certified clinical audiologist. Such hearing aids must be purchased from a participating vendor....

Discussion

Article III A. (7) (d) provides benefits for hearing aids recommended by a licensed otologist or otolaryngologist and a certified clinical audiologist and which are purchased from a participating vendor. In this case, the hearing aid was ordered from a nonparticipating vendor. The Employee states that he was unaware of this requirement and that a participating vendor was not available locally.

The Employer has stated that a list of participating vendors was included with each information packet distributed to all Employees at the beginning of the new contract. In addition, it is the Employer's practice to accept any vendor who is listed as participating on any approved Funds listing. The Employer also states that there are two participating vendors within 35 miles of the Employee's location. Therefore, consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the hearing aid the Employee ordered from a nonparticipating vendor in March 1997.

Opinion of the Trustees

The Employer is not required to provide benefits for the hearing aid the Employee ordered from a nonparticipating vendor in March 1997.