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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-089 - 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 health benefits coverage for a portable oxygen concentrator under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse is being evaluated for a lung transplant and has been provided with oxygen for home use. Her physician has recommended that she exercise and improve her overall activity level so that she will be in the best physical condition in the event of surgery. To aid her in walking and exercise, the physician ordered a portable oxygen concentrator.

The Employer has denied benefits for the portable oxygen concentrator, stating that it is not medically necessary since the Pensioner's spouse already has oxygen provided in her home, including a portable unit.

Dispute

Is the Employer required to provide benefits for the Pensioner's spouse's portable oxygen concentrator?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Pensioner's spouse's portable oxygen concentrator because it is medically necessary.

Position of the Employer: The Employer is not required to provide benefits for the Pensioner's spouse's portable oxygen concentrator because it is not medically necessary. The Employer has already provided an oxygen concentrator for use in the home and a portable oxygen system for use outside the home, and no justification has been supplied showing that the present equipment is unsatisfactory.

Pertinent Provisions

The Introduction to Article III Benefits, of the 1993 Employer Benefit Plan, states, in pertinent part:

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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. . . .

Article III A. (6) (d) and (e) of the 1993 Employer Benefit Plan state in pertinent part:

(6) Home Health Services & Equipment

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(d) Medical Equipment

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Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

(e) Oxygen

Benefits are provided for oxygen supplied to a Beneficiary subject to the following conditions when ordered by the attending physician:

1. The patient is referred to a designated pulmonary consultant for testing.
2. Such consultant's report is submitted to the Plan Administrator with the order for oxygen.

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Discussion

The Introduction to Article III of the 1993 Employer Benefit Plan states that "[t]he 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." Article III A. (6) (d) and (e) provide benefits for the rental or, where appropriate, the purchase of medical equipment, including oxygen, suitable for home use when ordered by the attending physician.

The Pensioner's spouse's medical condition requires that she have oxygen available for use in the home. Further, her physician has advised an exercise regime to maintain her in the best physical condition prior to an anticipated lung transplant.

The necessity for a portable oxygen unit is apparent if the spouse is to walk and exercise effectively. The Employer, however, has already provided an oxygen concentrator for use in the home and a portable oxygen system for use outside the home. No documentation has been supplied to support the medical necessity for this additional portable oxygen system, or that the two oxygen units already in use by the Pensioner's spouse are inadequate. Therefore, consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the additional oxygen equipment.

#### Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the Pensioner's spouse's purchase of the additional portable oxygen equipment.