
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 93-090 - 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 prescribed medications under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse has been receiving treatment for depression. As an adjunct to the treatment, her physician has prescribed Fenfluramine and Phentermine.

The Employer has denied benefits for these drugs, saying that their use is not approved for the treatment of depression.

Dispute

Is the Employer required to provide benefits for the Employee's spouse's treatment with Fenfluramine and Phentermine?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for Fenfluramine and Phentermine medications because they are medically necessary.

Position of the Employer: The Employer is not required to provide benefits for Fenfluramine and Phentermine medications because they have not been approved for the treatment of depression.

Pertinent Provisions

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

. . . 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. (4) (a) of the Employer Benefit Plan states:

(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).

Discussion

The Introduction to Article III limits benefits to those medically necessary services that are of proven value and usefulness. Article III (A) (4) (a) provides benefits for prescription drugs for the treatment or control of an illness when ordered by a physician.

A Fund's medical consultant has reviewed the documentation in this case and notes that, while there are several drugs approved by the federal Food and Drug Administration for the treatment of depression, the prescription drugs Fenfluramine and Phentermine have not been approved for this use. The consultant concludes that use of these two drugs for the treatment of depression does not meet the requirement of medical necessity. Therefore, consistent with the provisions of the 1993 Employer Benefit Plan, the Employer is not obliged to provide benefits for the drugs Fenfluramine and Phentermine in the treatment of the Employee's spouse's depression.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for Fenfluramine and Phentermine in the treatment of the Employee's spouse's depression.