
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: CA-006 - March 23, 1999

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson,
and Elliot A. Segal.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage for hearing aids under the terms of the Coal Industry Retiree Health Benefit Act (Coal Act) Employer Benefit Plan.

Background Facts

The Pensioner purchased two hearing aids on March 22, 1993, totalling \$910.00. The bills were submitted to the Employer's insurance carrier, which denied the charges, stating that the Pensioner's "coverage only provides for this service when performed by a network provider/supplier as defined by the UMWA."

The Pensioner states that the Employer's insurance carrier never supplied Beneficiaries with a list of network providers, and even if this had been done, the Beneficiaries should not be limited to those providers on the list. The Pensioner further states that at a minimum he should be reimbursed for the cost of the hearing aids at the usual and customary rate for his geographic area. The Pensioner has died since this case was filed.

Dispute

Is the Employer required to provide benefits for the Pensioner's purchase of binaural hearing aids on March 22, 1993 totalling \$910.00.

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the Pensioner's purchase of binaural hearing aids because they are considered an eligible expense under the terms of the Employer Benefit Plan. Additionally, the Pensioner should not be penalized for not using a network supplier since neither the Employer nor its insurance carrier ever supplied beneficiaries with a list of network providers/suppliers.

Position of the Employer: The Employer has not responded to repeated requests from Funds' staff seeking its position in this dispute.

Pertinent Provisions

Article III.A.(7)(d) of the Coal Act Employer Benefit Plan states in pertinent part:

(7) Other Benefits

(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) of the Coal Act Employer Benefit Plan provides benefits for hearing aids when recommended by a licensed otologist, otolaryngologist and a certified audiologist and when purchased from a participating vendor.

In this case, the Pensioner has stated that Beneficiaries were not furnished with a list of participating vendors for hearing aid purchases. The Employer has not responded to numerous requests by Funds' staff for its position in this dispute or supplied any documentation supporting its position. Although the Plan specifies that hearing aid purchases must be made from participating vendors, the available evidence in this case is that such a list was not available to the Pensioner.

Therefore, consistent with the provisions of the Coal Act Employer Benefit Plan, and lacking any response from the Respondent, the Trustees conclude that the Employer is required to provide benefits for the Pensioner's purchase of hearing aids on March 22, 1993

Opinion of the Trustees

Consistent with the provisions of the Coal Act Employer Benefit Plan, the Employer is required to provide benefits for the Pensioner's purchase of hearing aids on March 22, 1993.