
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: CA-019 - 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 benefits for an assisted living facility admission under the terms of the Coal Industry Retiree Health Benefits Act of 1992 (Coal Act) Employer Benefit Plan maintained pursuant to section 9711 of the Internal Revenue Code.

Background Facts

On April 22, 1997, the Pensioner's spouse was admitted to an assisted living facility with diagnoses of dementia and paranoia. The medical records show that she had periodic episodes of agitation and, at the time of admission, was noted to have very poor short term memory capability. The latter was deemed sufficient cause to require that she have continuous supervision.

Neither Medicare nor the Employer have provided benefits for the Pensioner's spouse's stay in the assisted living facility.

Dispute

Is the Employer required to provide benefits for the Pensioner's spouse's stay in the assisted living facility?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the Pensioner's spouse's stay in the assisted living facility because it was medically necessary.

Position of the Employer: The Employer is not required to provide benefits for the Pensioner's spouse's stay in the assisted living facility because she was receiving custodial care and the facility was not a skilled nursing care facility.

Pertinent Provisions

Article III A. (5) (a) of the Coal Act Employer Benefit Plan states, in pertinent part:

- (5) Skilled Nursing Care and Extended Care Units
 - (a) Skilled Nursing Care Facility

Upon determination by the attending physician that confinement in a licensed skilled nursing facility¹ is medically necessary, to the extent that benefits are not available from Medicare or other State or Federal programs, benefits will be provided for:

- 1. skilled nursing care provided by or under the supervision of a registered nurse;

* * * * *

¹Skilled nursing care facility is limited to a skilled nursing care facility which is licensed and approved by Federal Medicare.

Article III A. (11) (a) 8. of the Coal Act 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:
 - 8. Custodial care, convalescent or rest cures.

Discussion

Article III A. (5) (a) provides benefits for care in a skilled nursing facility which is licensed and approved by the Federal Medicare program, when such care is provided by or under the supervision of a registered nurse. Article III (11) (a) 8. denies benefits for custodial care, convalescent care, or rest cures.

The facility states it is not approved by Federal Medicare as a skilled nursing facility.

A Funds' medical consultant has reviewed the documentation submitted with this case and has concluded that there is no medical documentation of the need for, or the provision of, skilled nursing care. The admission was to a non-Medicare approved facility for supervision,

medication administration and assistance with her activities of daily living. Therefore, the Trustees conclude that the Employer is not required to provide benefits for the Pensioner's spouse's stay in the assisted living facility.

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 stay in the assisted living facility.