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OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: CA-038 - October 1, 1998

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 under the terms of the Coal Industry Retiree Health Benefit Act of 1992 (Coal Act) Employer Benefit Plan maintained pursuant to section 9711 of the Internal Revenue Code.

Background Facts

On October 12, 1996, the Pensioner sustained a severe laceration on his thigh from a chain saw. He was seen in the emergency room and had several sutures inserted. He was discharged home with instructions to return on October 14, 1996. The Employer provided benefits for each of these visits.

During the second visit, the Pensioner's wound was cleaned and bandaged and he was instructed to return again on October 18, 1996. At the next visit, he was started on antibiotics and advised to return on October 23, 1996 for suture removal. The Employer denied benefits for the third and fourth visits, saying that they were for care not rendered within 48 hours of an accidental injury and that there were no acute symptoms requiring emergency care.

Dispute

Is the Employer required to provide benefits for the two follow-up visits on October 18, 1996 and October 24, 1996?

Positions of the Parties

Position of the Pensioner: The Employer is required to provide benefits for the two last follow-up visits because they were medically necessary and because the physician instructed him to return.

Position of the Employer: The Employer is not required to provide benefits for the last two follow-up visits because the Pensioner could have had the service provided at a more appropriate level of care; i.e., he could have visited his family doctor for the follow-up care.

Pertinent Provisions

Article III A. (2) (a) of the Coal Act Employer Benefit Plan states:

- (2) Outpatient Hospital Benefits
 - (a) Emergency Medical and Accident Cases

Benefits are provided for a Beneficiary who receives emergency medical treatment or medical treatment of an injury as the result of an accident, provided such emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of the accident.

Article III A. (10) (h) 2. of the Coal Act Employer Benefit Plan states, in pertinent part:

- (10) General Provisions
 - (h) Explanation of Benefits (EOB) and Hold Harmless

2. The Employer and the UMWA agree that excessive charges and escalating health costs are a joint problem requiring a mutual effort for solution. In any case in which a provider attempts to collect excessive charges or charges for services not medically necessary, as defined in the Plan, from a Beneficiary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the provider. . .

Discussion

Under Article III. A.(2)(a) of the Employer Benefit Plan, benefits are provided for treatment of an accidental injury when it is rendered within 48 hours following the onset of acute medical symptoms. Article III. A.(10)(h)2. holds Beneficiaries harmless for care that is not medically necessary.

A Funds' medical consultant has reviewed the medical records in this case and has concluded that there is no documentation of acute symptoms for the third and fourth emergency room visits and directing the Pensioner to return to the emergency room was not medically appropriate. He further advises that usual emergency room practice requires follow-up visits be done by the

patient's own doctor or at a clinic. In this case, the record shows that the emergency room staff instructed the Pensioner to return for the two follow-up visits.

Since returning to the emergency room for follow-up care was not medically appropriate, the Employer is not required to provide hospital benefits for the emergency room charges, but is required to hold the Employee harmless from any attempt by the provider to collect charges for the use of the emergency room for the last two follow-up visits.

Opinion of the Trustees

Consistent with the provisions of the Coal Act Employer Benefit Plan, the Employer is not required to provide benefits for the Pensioner's third and fourth visits to the emergency room, but is required to hold the Pensioner harmless against any attempt by the provider to collect for the charges involved.