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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: CA-061 – November 13, 2002

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 Benefit Act of 1992 (Coal Act) Employer Benefit Plan maintained pursuant to section 9711 of the Internal Revenue Code.

Background Facts

The Pensioner's spouse is 5' 1" tall and weighs 172 pounds. According to the Pensioner's spouse's physician, the pensioner's spouse's present health and history require obesity treatment. The physician prescribed Xenical, an anti-obesity medication, for the Pensioner's spouse indicating that the medication was medically necessary for his patient. However, the Respondent has denied coverage for Xenical.

Dispute

Is the Respondent required to provide coverage for the Pensioner's spouse's prescription for Xenical?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide coverage for the Pensioner's spouse's prescription for Xenical because the medication is medically necessary for the treatment of the spouse's obesity.

Position of the Respondent: The Respondent is not required to provide coverage for the Pensioner's spouse's prescription for Xenical because under the terms of the Employer benefit Plan, treatment for obesity is excluded unless the beneficiary has a morbid form of obesity, which is defined as 200% or more of the beneficiary's desirable weight. Because the Pensioner's spouse's weight is not 200% above her desirable weight, she does not meet the requirements under the Plan to receive coverage for Xenical. This position is upheld by the Trustees' opinions in RODs 88-313, 88-290, and 84-247.

Pertinent Provisions

Article III. A. (11)(a) 25. of the Coal Act Employer Benefit Plan states:

ARTICLE III BENEFITS

A. Health Benefits

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

25. Charges for treatment of obesity, except for pathological, morbid forms of severe obesity (200% or more of desirable weight) when prior approval is obtained from the Plan Administrator.

Discussion

Article III. A. (11)(a) 25. of the Coal Act Employer Benefit Plan excludes coverage for the treatment of obesity unless the beneficiary has a pathological, morbid form of severe obesity, which is defined as 200% or more of desirable weight. According to the 1999 Metropolitan Life Insurance Company's Height and Weight Tables, the desirable weight for a female who is 5'1" tall ranges from 106 to 140 pounds, depending on the size of her frame. Based on the above-cited Table, the Pensioner's spouse's weight would have to be 212 pounds at a minimum to meet the Coal Act Employer Benefit Plan's definition of a pathological, morbid form of severe obesity. Thus, the Pensioner's spouse's weight of 172 pounds does not meet the Plan's definition of severe obesity. Therefore, the Respondent is not required to provide benefits for the Pensioner's spouse's prescription for Xenical.

Opinion of the Trustees

The Respondent is not required to provide benefits for the Pensioner's spouse's prescription for Xenical.