
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: CA-082 – July 25, 2007

Trustees: Micheal W. Buckner, A. Frank Dunham, Michael H. Holland, 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 Employer Benefit Plan.

Background Facts

Complainant's spouse sought treatment for pain in the right shoulder following a fall. Three weeks after starting initial treatments, her physician prescribed a series of occupational therapy treatments using Iontophoresis with Dexamethasone to decrease tenderness and inflammation of the rotator cuff. Iontophoresis is the introduction of ions of soluble salts into tissues of the body by means of an electric current. It is a form of electro-osmosis and its use is often for therapeutic purposes. It is also known as ion therapy. Iontophoresis was used on the Complainant's spouse for eight visits. The Employer has refused to pay for the portions of occupational therapy that involved the use of Iontophoresis.

Dispute

Is the Employer required to provide benefits for the occupational therapy using Iontophoresis?

Positions of the Parties

Position of the Complainant: The services provided to the Complainant's spouse were prescribed by her physician and were effective in treating her injury. The treatments should be covered under the Employer's Health Plan.

Position of the Respondent: The denied services are experimental and investigational in nature and therefore are not covered under the Employer Benefit Plan.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states:

ARTICLE III BENEFITS

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of current questionable usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in a timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. The benefits described in this Article are subject to any precertification, prescription drug formulary (PDP) requirements, and other utilization review requirements implemented pursuant to Article IV. Covered services that are medically necessary will continue to be provided, and accordingly, while benefit payments are subject to prescribed limits, this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III A. states in pertinent part:

ARTICLE III

A. Health Benefits

(2) Outpatient Hospital Benefits

(e) Physiotherapy

Benefits are provided for physiotherapy treatments performed in the outpatient department of a hospital. Such therapy must be prescribed and supervised by a physician.

(3) Physicians' Services and Other Primary Care

(m) Specialist Care

Benefits will be provided for treatment prescribed or administered by a specialist if the treatment is for illness or injury which falls within the specialist's area of medical competence.

(7) Other Benefits

(b) Physical Therapy

Benefits are provided for physical therapy in a hospital, skilled nursing facility, treatment center, or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician and administered by a licensed therapist. The physical therapy treatment must be justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration.

(11) General Exclusions

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

24. Charges for treatment with new technological medical devices, therapy which are experimental in nature.

Discussion

Initial treatment given the Complainant's spouse for shoulder pain, including the use of Interferential Stimulation and Galvanic Ultrasound, resulted in centralization of symptoms over a three week period. It was at this time that Iontophoresis was initiated and continued for eight occupational therapy visits, ending on November 9, 2005. The Complainant's spouse reported a decrease in pain after receiving Iontophoresis, and has not returned for further treatment since November 9, 2005.

Respondent cites Article III A. (11) (a) 24 of the Employer Benefit Plan, which states that therapies considered experimental in nature are not covered by the Plan. The case was reviewed for the Respondent by a licensed physical therapist who concluded that Iontophoresis has not been shown superior to standard methods of administering medications in the peer reviewed literature. According to the Respondent, the Summary Plan Description (SPD), under the section entitled "Expenses not covered," states that the plan excludes "treatments, procedures or devices considered experimental or investigational in nature, as determined by the claims administrator."

The Introduction to Article III states that in determining whether or not a therapy is medically reasonable, due consideration will be given to the customary practices of physicians in the community where the service is provided. Funds' Medical Director has reviewed the facts of this case and states that in cases of emerging treatments and therapies, the Funds relies on Medicare policy of coverage of these modalities to determine if they are still investigational or are considered accepted treatments and therapies by the medical community. In regard to Iontophoresis, Medicare does not have a national policy, but leaves the coverage up to the local Part A intermediaries or Part B carriers. The local Medicare policies are mixed with many of

those who do cover the therapy supporting it for the delivery of topical medications such as dexamethasone, which the Complainant's spouse received. The Medicare intermediary for West Virginia, where the Complainant's spouse received her therapy, covers Iontophoresis provided there is medical documentation of the need for such therapy.

It is the opinion of Funds' Medical Director that the occupational therapy with Iontophoresis administered to the Complainant's spouse in New Martinsville, WV, was medically necessary and covered by Article III of the Benefit Fund Administration (Employer Plan).

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Respondent is required to provide benefits for the Iontophoresis treatments administered to the Complainant's spouse.