
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 16-0015 - December 7, 2020

Trustees: Micheal Buckner, Michael H. Holland, Michael O. McKown, and Joseph R. Reschini

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

Over the course of several weeks in the fall of 2018, the Complainant's spouse was experiencing pain in her left knee. She had x-rays and an MRI of the knee in November 2018. Based on these diagnostic tests and physical examination, her physician diagnosed her as having a meniscus tear. The physician recommended arthroscopic surgery on her left knee to repair the tear. On December 13, 2018, Complainant's spouse had the arthroscopic surgery on her left knee, during which the medial and lateral meniscus tears were repaired. The Respondent denied the charges billed by the surgeon, \$3,344.00, and the anesthesiologist, \$900.00, as non-covered stating that the plan does not cover services that they determine are experimental or investigational.

Dispute

Is the Respondent required to pay the surgeon and the anesthesiologist for the charges related to the arthroscopic knee surgery performed on December 13, 2018?

Positions of the Parties

Position of the Complainant: The Complainant's spouse's arthroscopic knee surgery on December 13, 2018, was medically necessary. The charges for the surgery and anesthesia are covered benefits under the Employer Benefit Plan, and therefore the Respondent should pay those charges.

Position of the Respondent: The charges for the surgery and anesthesia are not covered benefits under the Employer Benefit Plan.

Pertinent Provisions

Article III of the 2016 Employer Benefit Plan states in part:

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 questionable current 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 timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care.

Article III (A)(3)(a) and (d) of the Employer Benefit Plan states in part:

A. Health Benefits

3. Physicians' Services and Other Primary Care

(a.) Surgical Benefits

Benefits are provided for surgical services essential to a Beneficiary's care consisting of operative and cutting procedure (including the usual and necessary post-operative care) for the treatment of illnesses, injuries, fractures or dislocations, which are performed either in or out of a hospital by a physician.

(d.) Anesthesia Services

Benefits are provided for the administration of anesthetics provided either in or out of the hospital in surgical or obstetrical cases, when administered and billed by a physician, other than the operating surgeon or his assistant, who is not an employee of, nor compensated by, a hospital laboratory or other institution; or by a nurse anesthetist.

Article III.A (11) a. (23) of the Employer Benefit Plan states in part:

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:

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

Discussion

Article III of the Employer Benefit Plan states that benefits will be provided for medically reasonable and necessary procedures ordered by a physician for the treatment of an illness or injury. However, the Employer Benefit Plan specifically notes that “procedures which are of unproven value or of questionable current usefulness” are not considered reasonable or necessary. In December 2018, Complainant’s spouse underwent arthroscopic surgery to repair a tear to the meniscus in her knee. The Employer denied the surgery and anesthesia claims as not being covered services under the Employer Benefit Plan. The stated basis for the denial was that the plan does not cover services which are found to be experimental or investigational.

The Funds’ Medical Director’s opinion is that the arthroscopic surgery was medically necessary and not experimental. This opinion is based upon the Medical Director’s review of the medical records, Medicare coverage, coverage by several health plans, specialty society guidelines, as well as a consultation with an orthopedic surgeon experienced in medical review. The Medical Director noted that conservative treatments had failed and that the Claimant’s spouse’s symptoms were progressing. Further, “Orthopedic surgeons strongly consider arthroscopic surgery to be the community standard of care for meniscus tears associated with mechanical symptoms when patients fail conservative treatment.” The arthroscopic surgery was therefore reasonable and medically necessary.

The Medical Director also believes that the surgeon had little evidence that there was severe degenerative disease preoperatively. Therefore, it is the Medical Director’s opinion that Complainant’s spouse’s arthroscopy surgery was “reasonable and necessary to resolve progressive symptoms and to possibly prevent or delay a knee replacement.”

The Employer’s position that the arthroscopic surgery was experimental is rejected. According to the Funds’ Medical Director, “Experimental denials are usually reserved for treatments that are new and unproven, or when treatment is provided under research protocols.” Neither of these criteria are met in the instant case. The treatment was not provided under a research

protocol and, as previously described, arthroscopic surgery is an accepted treatment option under these circumstances. It is the Medical Director's opinion that arthroscopic surgery would not be considered to be experimental under Article III.A (11) a. (23) of the Employer Benefit Plan.

Opinion of the Trustees

Article III of the 2016 Employer Benefit Plan provides for coverage of services that are reasonable and necessary. The Employer is required to provide payment for the arthroscopic surgery and related anesthesia charges rendered to the Complainant's spouse on December 13, 2018 because the surgery was reasonable and necessary.