791/08

Den 17. marts 2008 blev i sag nr. 71.852:

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mod

International Health Insurance danmark a/s
Palægade 8
1261 København K

afsagt sålydende

k e n d e l s e :

_____

Forsikringstageren, der har haft "Sundhedsforsikring i Udlandet" i International Health Insurance danmark a/s, påstår selskabet tilpligtet at udbetale en mio. USD i kompensation for de helbredsproblemer, som selskabets behandling af sagen har medført for ham.

Selskabet har afvist at efterkomme kravet bl.a. under henvisning til, at der ikke er årsagssammenhæng mellem klagerens helbredsproblemer og afslaget på dækning af udgifterne til lægens daglige hjemmebesøg.

Det fremgår af sagen, at klageren er født den 20/11 1947, og at hans forsikring blev tegnet med ikrafttrædelse den 1/2 1983. Som følge af, at selskabet ikke tog bekræftende til genmæle over for klagerens krav om kompensation i forbindelse med hans sygdom, valgte klageren i 2005 at undlade at betale forsikringspræmien. Efter fremsendelse af præmieopkrævning og efterfølgende rykkere blev forsikringen afgangsført pr. 31/12 2005.

I 1992 fik klageren diagnosticeret diabetes. I de følgende år refunderede selskabet en række medicinske udgifter i relation til klagerens forskellige lidelser, herunder diabetes, rygsmerter, forhøjet blodtryk (hypertension) og forhøjet blodsukker (hyperglycemi). Ved skrivelse af 16/12 2004 meddelte selskabet, at det efter en grundig gennemgang af det seneste års regninger og medicinske rapporter havde besluttet, at det ikke længere ønskede at refundere udgifterne til bl.a. lægelige hjemmebesøg og jævnlige konsultationer hos øjenspecialist.

I e-mail af 4/2 2005 anmodede klagerens ægtefælle om en revurdering af selskabets afgørelse. Til støtte for kravet om, at selskabet skulle genoptage betalingen af udgifterne til to daglige lægeligt udførte insulininjektioner i klagerens hjem, anførte klagerens ægtefælle bl.a.:

> "… my husband has been going by himself the way he could for the distance of 48 kms return on the bad roads, for a period of 10 days, in able to take his insulin injections and sometimes not finding the doctor, so he wasn't able to take his injections properly. On the 13th of January his health conditions were very bad, and even so he went the distance of 24 kms. The doctor wasn't at his clinic so his sugar level reached more than 500. As a result he has lost completely the sight of his right eye since that date. We have all the necessary reports from the doctors to prove that, after a few days we will send you by fax a report from the oculist treating my husband. He is now absolutely unable to go to the doctor for treatment, he has managed to agree on a special price with the doctor for him to come twice daily, morning and evening, to give him his injections.
> As I mentioned it before in Syria there is no price for a doctor leaving his clinic for a long distance, and closing his clinic for two hours at least. The price has to be agreed by both patient and doctor.
> 40 $ daily for two trips, morning and evening. Including two insulin injections daily, controlling his sugar level, pressure, and any other necessary treatment, plus the transportation fee of the doctor. Which makes 1200 $ monthly. The doctor will absolutely not come for less than this price. My husband is not willing to change this doctor since he has been treating him for 20 years, and is full aware of his health condition. Since the 13th of January (the day of the accident) it isn't possible for him to move alone, he needs to be accompanied constantly, which isn't always possible."

Ved skrivelse af 20/5 2005 fastholdt selskabet sin beslutning. Således anførte selskabet bl.a.:

> "Our medical consultants have reviewed your medical reports and bills that have been submitted to us during the last year. In that connection we find that the treatments and examinations by far exceed what is necessary and the prices on the treatments and examinations are not within a price range of what is considered fair and normal in Syria. Based on the above we have decided not to reimburse home visits in connection with insulin injections, frequent eye specialist consultations and other treatments and examinations that our medical consultants find excessive."

Den 18/5 2007 blev sagen indbragt for nævnet med påstand om betaling af en mio. UDS i kompensation. Til støtte herfor anfører klageren bl.a.:

> "I am a diabetic on insulin for many years, and the insurance company used to pay a fee for the Doctor who used to attend my residence in Syria on daily basis to check my sugar levels and administer the insulin injection according to my sugar levels. I live alone with my wife in a village and neither my wife or my self are able to administer the injection (my hand shakes a lot and both my wife and my self have needle phbia). Therefore, I relied totally on my Doctor for the administration of the insulin. Suddenly without previous notice the company decided to stop paying a fee for the administration of the insulin injection. I did object on several occasions by phone and by writing that, my sugar levels are unstable and I am unable to pay the doctor for the administration of the insulin. As a result I used to miss the injection for several days till my son who lives in a different city, 90 km far attends to give me the injection. Consequently my sugar levels never got stable and my health got worse. Few months later I lost vision completely and suddenly in my right eye. Ophthalmologist confirmed that the loss is due to unstable sugar levels. Also my cardiological angina peripheral vascular system got worse.
> I personally feel that the insurance company is fully responsible for the loss of My vision and deterioration of my health. The company refused to give me a compensation of 1000,000 US dollars which I find very reasonable."

Selskabet har over for nævnet fastholdt sin afgørelse. Til støtte herfor anfører selskabet i skrivelse af 14/6 2007 bl.a.:

> "Der er tale om såkaldt Gruppe 3 - Sundhedsforsikring i udlandet, som er en syge/sundhedsforsikring, der kort fortalt dækker hospitalsindlæggelse samt læge- og speciallægehjælp. Forsikringen er opbygget af en hovedforsikring samt eventuelle tillægsdækninger, som den enkelte forsikringstager vælger. I det konkrete tilfælde består dækningen af en Basis Sundhedsforsikring uden selvrisiko samt tillægsdækningerne Basis Tandplejeforsikring og Medicinsk Evakuering.
> …
> **Konklusion**
> Som det fremgår af ovenstående redegørelse og de lægeerklæringer, der er vedlagt i kopi, fik MK i 1992 stillet diabetes, og har således haft diabetes i 15 år. …
>
> Ifølge Selskabets lægekonsulenter er det ikke usædvanligt at diabetespatienter mister synet, dette uanset om deres sygdom er godt reguleret eller ej.
>
> Det betyder, at der ikke er nogen årsagssammenhæng mellem Selskabets afvisning af at dække hjemmebesøg og MKs synstab og hans generelt forringede helbredstilstand. Dette bekræftes yderligere af det forhold, at såvel MKs synsproblemer som de generelle helbredsproblemer blev konstateret forud for Selskabets afvisning af fortsat dækning af lægens hjemmebesøg.
>
> Derudover skal det fremhæves, at det - som det også fremgår af redegørelsen og de vedlagte lægeerklæringer - drejer sig om en diabetespatient med et dårligt reguleret blodsukker og generelt dårligt helbred. Yderligere kan bemærkes, at MK tilsyneladende har ydet/yder meget dårlig egenomsorg, altså viser ringe evne til at tage vare på sig selv og sin sygdom
> …

> Så meget desto mere vil Selskabet påberåbe sig, at der ikke er årsagssammenhæng mellem vores afslag på dækning af udgifter til lægens daglige hjemmebesøg hos MK, og MKs helbredsproblemer, og altså afvise MKs krav om USD 1 mio. i kompensation.
>
> Sidst men ikke mindst vil vi fremhæve, at såvel selve injektionen som insulinen som sådan hele tiden har været dækningsberettiget jf de gældende policebetingelser og refusionsoversigt. Det vi har afvist at dække er en læges daglige hjemmebesøg hos MK."

Til støtte for sagen har selskabet desuden henvist til forskellige lægeerklæringer, som ifølge selskabet viser, at klageren generelt har dårligt helbred, herunder dårligt reguleret blodsukker.

Af lægeerklæring af 17/8 1994 fremgår bl.a.:

> "He smokes 40 cigarettes a day.
> …
> He suffers from overweight, insufficient activity, high blood pressure …
>
> He is in need of a special diet in order to lower his high blood sugar, cholesterol and triglycerides."

Af lægeerklæringen af 30/9 1998 fremgår bl.a.:

> "I was sent for to Mr. M.K.'s house on 30.08.1998, and having examined him I found that he was in coma which I thought it was caused by a fit of an increase in glycemia; and after a prompy analysis it appeared that the glycemia is 490 and his hematopiesis is 180/90. …
>
> Having returned to the patient's file, it has come to light he was already suffering from an old hypoperfusion with an increase in the triglyceride and cholesterol."

Af lægeerklæringen af 3/10 2004 fremgår bl.a.:

> "I visited Mr. M.K. in his house while he was in an emergency state on 20.09.2004 as he was suffering from sudden loss of sight in his right eye. So, having treated him for a week, I advised him to effect the required analyses, lab tests and some radiographs.
>
> The result is that he suffers from fits of sudden prescription in the retina vessels with retina hypo-perfusion besides the same lack of perfusion in his heart shown through a strain effort.
>
> This state has frequently reoccurred leading to deficiency of the sight power in the right eye: (7 out of 10) i. e. 0.7 VOD."

Klageren er i skrivelse af 22/6 2007 til nævnet fremkommet med følgende bemærkninger til det af selskabet anførte:

> "According to the doctors attest, the 17th of August 1994, it isn't correct at all what the doctor has written that I am a strong smoker, he has never asked me about that, he might

> have asked my wife, she says that she told him that he smokes between 4 or 5 cigarettes daily, he might have misunderstood my wife since my wife doesn't speak Arabic properly and she can't read Arabic. The same mistake has been repeated in the attest of October 2003 concerning the smoking which isn't true.
> My weight at that time wasn't more than 80 kgs.
> The letter of the company of 16th December 2004 denying to pay the consultations and the insulin injections which was very necessary for me to be done by a doctor at home since my residence was very badly served by transportation means, since my physical condition didn't permit me to move easily or drive. To be noted that my sugar level has seldom been normal, in spite of a good and a strong diet life, as much as possible in Syria.
> My doctor has awarded the company several times, since my sugar level was often too low, that it was necessary for him to check it before giving me the insulin injection. …
> We don't understand the company's remark that diabetics can loose sight even with a good regulated sugar level. At the same time we can not understand why the company doesn't accept that with[out] a good treatment, and proper medical service, a patient's health can deteriorate."

I skrivelse af 29/7 2007 til nævnet supplerer klagerens ægtefælle desuden:

> "I have to add to my complaints that the doctor has forbidden my husband to drive at all or walk for long distances, since he has problems with his extremities.
> His diabetes is almost impossible to control, in spite of the strong diet he is following, his sugar level falls or rises suddenly with unknown reason. Therefore it is necessary for the doctor to check his sugar level every time before giving him his injection.
> On the other side we are living in the countryside 23 kms. from the city, it is very difficult to get regular transportation to T. City to reach the doctor in time.
> …
> We have tried to get a nurse instead of a doctor, but none will take the responsibility of applying the insulin without acceptance of a doctor, and no doctor will give it to her before checking my husband."

I skrivelse af 15/10 2007 fastholder selskabet, at det ikke kan anerkende klagerens uspecificerede krav om en mio. USD i kompensation.

Hertil anfører klageren i skrivelse af 2/11 2007 bl.a.:

> "In my doctor's point of view the insurance company has committed a mistake in its decision to stop compensate for the medical inspections, insulin injections and the ophthalmologist consultation, before making sure of the reality of this decision by contacting the treating physicians, and asking for their point of view in this matter. By that my doctors and I would have had the chance to argue this unfair and illegal decision with them.
> As a result of their decision I could not meet with the oculist regularly, neither get my insulin injection on the right time daily, and some times not being able to take it at all since there was nobody to apply it to me on his responsibility, I was subject to comma twice for not taking the right doses.
> …
> I close my letter insisting on the health compensation for the lose of my right eye, and the retreat of my other eye, beside my cardiac problems, and that of my limbs, as I claim for a psychical and moral compensation for my family who shared with me the problem. I add to

that, that I was obliged to sell much of my assests in order to cover the bad state I am in. Therefore I insist on claiming the same amount of 1000000 $ in compensation."

Af forsikringsbetingelserne fremgår bl.a.:

"**§ 6 HVAD DÆKKER FORSIKRINGEN?**
6.1: Forsikringen yder dækning til forsikredes sygeudgifter i henhold til den valgte dækning og de dertil knyttede refusionstakster. De gældende refusionstakster forefindes i Refusionsoversigten.
…
6.6: Erstatning er begrænset til udgifter, som er almindelige og rimelige for området eller landet, hvor behandlingen finder sted.
…
§ 14: OVERDRAGELSE, OPSIGELSE OG OPHØR
…
14.6: Selskabet kan med 3 (tre) måneders varsel til hovedforfald stoppe eller suspendere et forsikringsprodukt og tilbyde forsikrede en tilsvarende forsikringsordning."

Af refusionsoversigten i forsikringsbetingelserne fremgår det, at Basis Sundhedsforsikringen bl.a. dækker dele af udgifterne til hospitalsophold, autoriseret sygeplejerske i hjemmet, konsultation hos læge/speciallæge, injektioner samt "særlig ydelser".

Nævnet udtaler:

Efter sin gennemgang af sagen finder nævnet det ikke godtgjort, at der er årsagssammenhæng mellem klagerens helbredsproblemer og selskabets afslag på dækning af udgiften til lægens daglige hjemmebesøg hos klageren. Nævnet finder derfor ikke grundlag for at kritisere, at selskabet har afvist at yde klageren kompensation som sket.

Som følge heraf

b e s t e m m e s :

Klagen kan ikke tages til følge.

J. Hermann