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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-196 - June 28, 1986

Board of Trustees: Joseph Connors, Sr., Chairman; Paul R. Dean, Trustee;  
William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the hospital admission pre-certification review program (also referred to as "a pre-admission review," or "pre-admission certification" program) operated by an Employer.

### Background Facts

The Complainant, an employee, has submitted evidence showing that his Employer has implemented a hospital admission pre-certification program which includes penalties, in the form of reduced benefit payments, if Employees do not have their hospital admissions pre-certified. The Complainant argues that such penalties amount to a reduction in benefits, and that such reduction in benefits is precluded under Article III of the Employer Benefit Plan.

The Respondent, which is signatory to the 1984 Wage Agreement, has failed to respond to repeated requests from the Trustees to provide its position in this dispute.

### Dispute

Is the imposition of a penalty if an Employee fails to have his or her hospital admission pre-certified permissible under Article III of the Employer Benefit Plan?

### Position of Parties

Position of the Complainant: The imposition of a penalty if an Employee fails to have his or her hospital admission pre-certified is not permissible under Article III of the Employer Benefit Plan.

Position of the Respondent: The Employer did not present its position in the dispute.

Pertinent Provisions

The introduction to Article III of the Employer Benefit Plan states in part:

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 which 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. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III. A. (1)(a) of the Employer Benefit Plan states in part:

When a Beneficiary is admitted ... for treatment as an inpatient to an accredited hospital ..., benefits will be provided for semi-private room accommodations ... and all medically necessary services provided by the hospital as set out below for the diagnosis and treatment of the Beneficiary's condition.

Article III. A. (10)(b) of the Employer Benefit Plan states in part:

The Plan Administrator is authorized to promulgate rules and regulations to implement and administer the Plan, and such rules and regulations shall be binding upon all persons dealing with the Beneficiaries claiming benefits under this Plan.

Article III. A. (10)(g) 2. of the Employer Benefit Plan states:

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. Whether the Plan Administrator or his agent negotiates a resolution of a matter or defends a legal action on a Beneficiary's behalf, the Beneficiary shall not be responsible for any legal fees, settlements, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided under the Plan. The Plan Administrator or his agent shall have sole control over the conduct of the defense, including the determination of whether the claim should be settled or an adverse determination should be appealed.

#### Discussion

Under Article III. A. (I) of the Employer Benefit Plan, benefits are provided for inpatient hospital admissions. Those admissions must, however, be medically necessary, appropriate, and reasonable, as stated in the introduction to Article III of the Plan. In addition, Plan Administrators are authorized, under Article III. A. (10)(b) to promulgate rules and regulations to administer the Plan. Article III. A. (10)(g) 2 of the Employer Benefit Plan states that "escalating health costs are a joint problem requiring a mutual effort for solution," and require Employers to establish Hold Harmless programs to ensure that the burden of cost containment efforts not be shifted to beneficiaries.

Medically necessary hospital admissions are covered by the Employer Benefit Plan. Conversely, hospital admissions which are not medically necessary are not covered. Employers are authorized to implement procedures to ensure that the hospital admissions for which they pay benefits are medically necessary, and it is reasonable for such procedures to include hospital admission pre-certification programs. The Employer Benefit Plan does not include any provision which authorizes the imposition of penalties on beneficiaries for failure to comply with pre-certification programs.

The introduction to Article III of the Plan states that "covered services that are medically necessary will continue to be provided" and that provisions associated with determining whether services are medically necessary and, therefore, covered "shall not be construed to detract from plan coverage." Procedures or programs implemented by Employers to ensure that only medically necessary services are covered may not be used or construed to deny any benefit provided in Article III of the Plan, or to cause a loss of any benefit provided in Article III, or to allow a lower level of benefits than that provided in Article III.

#### Opinion of the Trustees

The Respondent may not impose penalties on the Complainant for failing to submit proposed hospital admissions for pre-certification.