

## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-704 - September 13, 1989

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 provision of benefits for emergency room care under the terms of the Employer Benefit Plan.

### Background Facts

The Employee's seven-month-old son was taken to a hospital emergency room for medical evaluation and treatment at 4:10 p.m. on Sunday, January 18, 1987. According to the hospital's emergency room record, the infant had recently completed a ten-day course of antibiotics for an upper respiratory infection. His parents reported that he had shown improvement until the day of his emergency room visit, when he became febrile, congested and began tugging at his left ear. The Employee's son was diagnosed as having an ear infection that required antibiotics for treatment. The Employer denied the charges related to the use of the emergency room.

### Dispute

Is the Employer required to pay the emergency room charge resulting from the Employee's son's evaluation and treatment on January 18, 1987?

### Positions of the Parties

Position of the Employee: The Employer is required to pay the emergency room charge because treatment was sought within 48 hours of the onset of acute medical symptoms as required under the Employer Benefit Plan.

Position of the Employer: The Employer is not required to pay the emergency room charge because treatment was not provided within 48 hours of the onset of the patient's medical symptoms.

Pertinent Provisions

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

(2) Outpatient Hospital Benefits

(a) Emergency Medical and Accident Cases

Benefits are provided for a Beneficiary who receives emergency medical treatment or medical treatment of an injury as the result of an accident, provided such emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of the accident.

Discussion

Article III. A. (2) (a) of the Employer Benefit Plan provides that emergency medical treatment is a covered benefit when it is rendered within 48 hours following the onset of acute medical symptoms.

The Employer claims that treatment was not rendered within 48 hours of the onset of the infant's symptoms because the emergency room record gives the "onset of condition" as "about three weeks" and indicates that the infant had been treated with penicillin for ten days. However, the physician's report clearly states that the infant had been treated with penicillin for bronchitis and that he had shown improvement until the day of the emergency room visit when his parents noted new symptoms that prompted them to seek emergency medical treatment. A Funds' medical consultant has reviewed the records of the emergency room visit and advised that the infant's oral temperature of 101.2 degrees and severe ear pain constitute "acute" medical symptoms that would reasonably indicate the need for emergency medical care to prevent serious complications. The record indicates that emergency medical treatment was provided within 48 hours of the onset of the patient's acute medical symptoms. Therefore, the Trustees find that the Employer is required to pay the emergency room charge resulting from the Employee's son's evaluation and treatment on January 18, 1987.

Opinion of the Trustees

The Employer is required to pay the emergency room charge resulting from the Employee's son's evaluation and treatment on January 18, 1987.