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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 07-0049 – January 5, 2011

Trustees: Micheal W. Buckner, Daniel L. Fassio, Morris D. Feibusch, and Michael H. Holland.

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

The Complainant went to the hospital immediately after ending his shift on October 29, 2009, to see his spouse, who had been unexpectedly admitted earlier that day. While visiting with his spouse, the Complainant began to have body aches and thought he had a fever. It was approximately 5:30 p.m., and, believing he could not reach the clinic before it closed at 6 p.m., he sought medical evaluation and treatment at the hospital emergency room (ER). ER records indicate the Complainant reported a headache, body ache and fever, all rated as high in severity, as the reasons for the visit. In the ER, the Complainant was given a chest x-ray and an injection of the pain medication, toradol. The Complainant was diagnosed with bronchitis and released approximately five and a half hours later. The Respondent has denied the charges related to the use of the emergency room.

Dispute

Is the Employer required to provide benefits for the charges connected with the ER visit of the Complainant on October 29, 2009?

Positions of the Parties

Position of the Complainant: The Employer is required to provide benefits for the ER charges incurred by the Complainant on October 29, 2009, because his symptoms were acute and he could not make it to another facility at that time for treatment.

Position of the Respondent: The Employer is not required to provide benefits for the ER visit since the treatment was not rendered at an appropriate level of care, services could have been provided at a more appropriate setting, and the Complainant's symptoms had been present for more than 48 hours prior to the ER visit.

### Pertinent Provisions

Article III of the 2007 Employer Benefit Plan states in pertinent 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 . . . Services which are not reasonable and necessary shall include, but are not limited to . . . procedures which can be performed with equal efficiency at a lower level of care.

Article III.A(2)(a) of the 2007 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 2007 Employer Benefit Plan provides benefits for emergency medical care when rendered within 48 hours following the onset of acute medical symptoms.

The Funds' Medical Director has reviewed the medical records in this case and is of the opinion that the Complainant's emergency room visit was medically necessary and met the requirements under Article III.A(2)(a) of the Employer Benefit Plan for emergency medical treatment. He noted that the emergency room physician recorded in her notes that the Complainant's symptoms were of two days' (48 hours) duration and were rated high in severity. He also concluded that the Complainant's pulmonary symptoms and past medical history warranted the chest x-ray.

### Opinion of the Trustees

Consistent with the provisions of the 2007 Employer Benefit Plan, the Respondent is required to provide benefits for the ER visit by the Complainant on October 29, 2009.