

January 25, 1983

(Opinion issued in letter form; name and address deleted)

Re: Opinion of Trustees
Resolution of Dispute
Case No. 144

Pursuant to Article IX of the United Mine Workers of America 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed your Request for Advisory Opinion concerning the level of health benefit coverage for your spouse's surgery. According to the information submitted, a total of \$175.00 of charges were incurred for services received by your spouse on November 14, 1979. These services were provided to her as your dependent under the terms of Benefit Plan established by your Employer pursuant to Article XX(c)(3) of National Bituminous Coal Wage Agreement of 1978. The Employer deemed \$75.00 of these charges to be excessive.

Under Article III.A. (10)(a) 12 of the Employer's Benefit Plan and 1978 Contract Question and Answer #62, the Employer is not required to pay a charge which the Plan Administrator, in his sole discretion, has determined to be excessive. The Plan Administrator has determined that \$75.00 of the \$175.00 of charges in this case is excessive. Because this determination was made by the Plan Administrator, the Employer is not obligated to pay that portion of the charge. And, because the determination of whether a charge is excessive is solely within the discretion of the Plan Administrator, the Trustees may not comment on the reasonableness of the charge.

Sincerely,

Harrison Combs, Chairman

John J. O'Connell, Trustee

Paul R. Dean, Trustee

Attachment

Date: July 14, 1978

Control Number: 62

Index Reference Number: III A 10

Subject: Fee Maxima

References: Amended 1950 & 1974 Benefit Plans & Trusts, Art. III,

Sect. A (10) (a)12

Other: 1978 Contract Q&A #16

Question:

1. Do the Trustees have the right to establish fee maxima by procedure or provider within geographic area, and to limit payments to fee maxima?
2. If yes, what requirements are there, if any, for the uniform administration of fee maxima?
3. If fee maxima can be applied must they be identical among plans administered by the Trustees and the individual company Plan Administrators?

Answer:

1. Yes. The Trustees of the 1950 and 1974 Benefit Plans and Trusts have the right to refuse to pay for "excessive charges as determined solely by the Trustees."
2. There are no requirements for nationwide uniformity, but provides in equal status under the Trustees' criteria must be treated equally.
3. No. The provisions of the 1950 and 1974 Benefit Plan and Trusts states that excessive charges are to be determined solely by the Trustees, and the provisions of the company plans places that responsibility with the Plan Administrator as designated by those plans.