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## OPINION OF THE TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 220, June 30, 1981

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee; Paul R. Dean, Trustee.

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 the facts and circumstances of this dispute concerning benefits for orthopedic shoes and hereby render their opinion on the matter.

### Background Facts

The Employee is an active mineworker eligible for health benefits under the Employer's Plan. On February 18, 1981, the Employee's dependent daughter purchased a pair of corrective shoes which had been prescribed by her attending physician. The orthopedic appliance company from which the shoes were purchased states that it only carries and fits "special orthopedic shoes, which we have in stock."

The Employer denied the charges for the shoes, stating that they were stock shoes and were not made specifically for the Employee's daughter. Therefore, the shoes are not covered under the Employer's Plan.

### Dispute

Is the Employer responsible for payment of the orthopedic shoes purchased for the Employee's dependent daughter?

### Position of the Parties

Employee's Position: The shoes should be covered because the shoes in stock are prescription shoes and they cannot be purchased at any store other than an orthopedic appliance store. Furthermore, this type of shoes has been covered for the last seven years.

Employer's Position: Under Article III, Section A (7) and 1978 Contract Q & A #55, benefits for stock orthopedic shoes are excluded from coverage although the corrections to stock shoes are covered. It is clear that the shoes in question are stock shoes and therefore should be excluded. Only the corrective work performed to the shoes should be covered.

Pertinent Provisions

- Article III, Section A (7)(a) 7 and 8 of the Employer's Plan provides as follows:

Benefits are provided for orthopedic and prosthetic devices prescribed by a physician when medically necessary. The following types of equipment are covered:

7. Orthopedic shoes when specifically prescribed for a Beneficiary according to orthopedist specifications, including orthopedic shoes attached to a brace that have to be modified to accommodate the brace. Benefits will not be provided for stock orthopedic shoes.
8. Orthopedic corrections added to ordinary shoes by a licensed orthopedist, family practitioner or pediatrician. Benefits are provided for only the correction to the shoe.

- 1978 Contract Question and Answer No. 55, approved by the Trustees on December 28, 1978, provides as follows:

Subject: Orthopedic Shoes and Corrections Prescribed by a Podiatrist.

Question: Are orthopedic shoes, corrections and orthotic constructions\* covered benefits when prescribed by a licensed podiatrist, as well as by a physician.

Answer: Yes. Orthopedic shoes, corrections and orthotic construction are covered when prescribed by a licensed podiatrist. However, payment will not be made for stock orthopedic shoes. If orthopedic corrections are made to ordinary shoes, only the corrections shall be paid for by the Funds. Payment will also not be made for foot pad (e.g., for calluses or bunions), nor for orthotic constructions for recreational purposes. A diagnosis must therefore accompany a bill for an orthotic construction.

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\* Orthotic construction: orthopedic appliance or apparatus used to support, align, prevent, or correct deformities or to improve the movable parts of the body.

Discussion

Under Article III A (7)(a) 7 and 8 and 1978 Contract Q & A #55, orthopedic shoes, corrections and orthotic constructions are covered when prescribed by a physician or a licensed podiatrist. However, stock orthopedic shoes are expressly excluded from coverage, although corrections to such shoes are covered.

Although prescribed by a physician, the shoes were not orthopedic shoes made exclusively to fit the Employee's daughter's specifications. The orthopedic appliance company states that it carries

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"special orthopedic shoes which we have in our stock". Because the shoes are considered to be stock orthopedic shoes, they are excluded from coverage.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not required to provide benefits for the orthopedic shoes purchased for the Employer's daughter.