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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 304, April 27, 1982

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 durable medical equipment benefits and hereby render their opinion on the matter.

Background Facts

The Employee is an active mine worker and is eligible for health benefits under the Employer's Plan. The Employee's spouse is being treated for various allergies. Her physician prescribed the purchase of a filter unit from a professional engineer. Therefore, the Employee purchased an Air De-Pollution Unit. The Employer has denied coverage for this purchase.

Dispute

Is the Employer responsible for the payment of charges for the purchase of the Air De-Pollution Unit?

Position of the Parties

Position of the Employee: The Employee feels that this equipment should be covered because it will in no way benefit anyone without allergies.

Position of the Employer: The Employer denies coverage based on Q&A #49 and ROD No. 178. The Employer states that these units can be used in the absence of illness or injury and, therefore, would not be covered. In addition, the Employer considers the units to be environmental control devices, for which benefits are not provided.

Pertinent Provisions

Article III. A(6)(d) of the Employer's Benefit Plan provides:

Benefits are provided for rental or where appropriate, purchase of medical equipment suitable for home use when determined to be necessary by a physician.

1978 Contract Question and Answer #49, approved by the Trustees on June 20, 1978, provides:

Subject: Medical Equipment and Supplies

Question: What medical equipment and supplies are covered under the 1978 Agreement?

Answer: Under the Home Health Services and Equipment provision, benefits are provided for the rental or purchase of medical equipment and supplies suitable for home use (including items essential to the effective use of the equipment) when determined to be necessary by a physician. These equipment and supplies include, but are not limited to:

1. Durable medical equipment which (a) can withstand use (i.e., could normally be rented), and (b) is primarily and customarily used to serve a medical purpose, and (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are: canes, commodes and other safety bathroom equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheelchairs.

#### Discussion

Article III. A (6)(d) of the Employer's Plan provides benefits for the purchase or rental of medical equipment. 1978 Contract Q&A #49 states that benefits are provided for such equipment and supplies including, but not limited to, durable medical equipment. Covered durable medical equipment is that which (a) can withstand use; (b) is primarily and customarily used to serve a medical purpose; (c) generally is not useful to a person in the absence of an illness or injury; and (d) is appropriate for use in the home. In ROD No. 178, adopted by the Trustees on March 26, 1981, the Trustees determined that an electrostatic precipitator, used to purify air for a child suffering from allergies, is not durable medical equipment because it would be useful to the child in the absence of the allergies. In addition, the Trustees determined that, because the precipitator is an environmental control device, it is not medical equipment which is otherwise covered under Article III. A (6)(d).

Similarly, the Air De-Pollution Unit used by the Employee's spouse would be useful to the spouse in the absence of her allergies. Consequently, it cannot be considered durable medical equipment for which benefits are provided. Finally, the Unit is an environmental control device and, as such, is not medical equipment which is otherwise covered under Article III. A (6)(d).

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The Trustees are of the opinion that the Employer is not responsible for payment of the charges for the purchase of the Air De-Pollution Unit.