

November 1, 1983

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

Re: Opinion of Trustees
Resolution of Dispute
Case No. 81-196

Your request for Trustee review of medical benefits payments for tubes in your son's ears has been handled by breaking the issue into two parts. The first part deals with the surgery your son had in 1980 while he was eligible as your dependent under the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1978.

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 Resolution of Dispute concerning the level of health benefit coverage for surgical services provided to your son under the 1978 Wage Agreement.

Under Article III. A. (10)(a) 12 of the Employer's 1978 Benefit Plan and 1978 Contract Question and Answer #62, attached hereto, 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 \$180.00 of the \$380.00 in total charges is excessive. Under the exemption granted by the United States Department of Labor for the 1978 Wage Agreement, this determination of whether a charge is excessive is solely within the discretion of the Plan Administrator and the Trustees may not comment on the reasonableness of the charge.

The second part deals with your attempt to determine independently if the current maximum allowance for the anticipated surgery on your son's ears represents a reasonable figure. You have claimed that your comparison shopping for this service in the area near your home did not turn up any surgeon who would perform the operation your son needs for a fee your Plan Administrator indicates is the current maximum that will be paid.

Under the exemption granted to the Funds by the Department of Labor in April 1982, however, the Trustees have the authority to resolve disputes involving excessive fees for services rendered under the 1981 Wage Agreement to the extent that they may determine whether the Plan Administrator has adopted and applied procedures calculated to arrive at an excessive fee determination.

Your complaint states that an anticipated second surgery for your son may result in a denial of payment because of a possible excessive fee determination by your Plan Administrator. Even under the 1981 Wage Agreement exemption from the Department of Labor, however, the Trustees cannot render an opinion on an event which has not yet occurred.

Presumably, your Plan Administrator has information you do not now have, specifically the name and location of surgeons in your area that have recently charged substantially less than the two surgeons you have contacted. By giving you this information, the Plan Administrator may be able to help you obtain good health care at an affordable price.

The Trustees take note of your assertion that the Plan Administrator has not updated the maximum allowable fee for this procedure in two (2) years. The fact that the maximum allowance has not changed since you last received this particular service in your area does not mean that the Plan Administrator has not reviewed their data since then. The Trustees note that the procedures described by the Plan Administrator call for updating every six months.

The Trustees also note that the procedures followed by the Plan Administrator contain a provision for protecting a beneficiary in excessive fee cases where no agreement can be reached between the carrier for the Plan Administrator and the physician who rendered the service. You are therefore encouraged to discuss this situation with your Plan Administrator prior to incurring additional health care claims for your son's anticipated surgery so that you may realize the full extent of the protections provided for such situations in the procedures used by your Plan Administrator.

Sincerely,

Harrison Combs, Chairman

John J. O'Connell, Trustee

Paul R. Dean, Trustee

Enclosure