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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-211, July 25, 1983

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 travel expenses for an Employee's dependent son under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Employee's dependent son has a severe speech impairment and requires speech therapy. He travels 105 miles (round trip), three times a week, for speech therapy from a licensed speech pathologist. The Employer has paid for the speech therapy, but has denied payment for travel to receive the speech therapy.

Dispute

Is the Employer responsible for payment of travel expenses incurred while traveling to receive therapy?

Positions of Parties

Position of Employee: Is the Employee responsible to pay for travel costs incurred while traveling to receive speech therapy?

Position of Employer: Claim is not payable because there are facilities closer and private transportation is available.

Pertinent Provisions

Article III. A. (7)(c) of the Employer's Benefit Plan provides:

- (c) Speech Therapy

Benefits are provided for speech therapy rendered by a qualified license speech therapist if the Beneficiary is a stroke patient or has had conditions including ruptured aneurysm, brain tumors or autism and needs special instruction to restore technique of sound and to phonate and needs direction in letter and work exercises in order to express basic needs. Benefits are also provided for speech therapy for child Beneficiaries with a speech impediment from a qualified speech therapist provided that the child cannot receive speech therapy through the public schools.

Article III. A. (7)(e) of the Employer's Benefit Plan provides:

(e) Ambulance and Other Transportation

Benefits are provided for ambulance transportation to or from a hospital, clinic, medical center, physician's office or skilled nursing care facility when considered medically necessary by a physician.

With prior approval from the Plan Administrator, benefits will also be provided for other transportation subject to the following conditions:

1. If the needed medical care is not available near the Beneficiary's home and the Beneficiary must be taken to an out-of-area medical center.
2. If the Beneficiary requires frequent transportation between the Beneficiary's home and a hospital or clinic for such types of treatment as radiation or physical therapy or other special treatment which would otherwise required hospitalization, benefits will be provided for such transportation only when the Beneficiary cannot receive needed care without such transportation.
3. If the Beneficiary requires an escort during transportation, the attending physician must submit satisfactory evidence as to why the Beneficiary needs an escort.

Discussion

Under Article III. A. (7)(e) of the Employer Benefit Plan, benefits are provided for transportation when the beneficiary must be taken to an out-of-area medical<sup>1</sup> for needed medical care which is not available near the Beneficiary's home, when the beneficiary requires frequent transportation between home and hospital or clinic for treatment which would otherwise require hospitalization and could not receive the needed care without such transportation, or when the beneficiary requires an escort during transportation that is otherwise a covered benefit. In each case, prior approval of the Plan Administrator is required.

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<sup>1</sup>. Under the Funds' Travel Policy, attached hereto, out-of-area is considered to be over 100 miles from the beneficiary's home.

Because the Employee did not have to travel to an out-of-area medical center for needed medical care, and although he required frequent transportation, he would not have been required to be hospitalized to receive the care needed without the transportation, he did not meet the requirement for travel. Therefore, the Employer is not responsible to pay travel expenses for the Employee's dependent son.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for payment of travel expenses for the Employee's dependent son.