

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-287 - November 28, 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 coverage of an insulin Infusion pump and its related supplies and hereby render their opinion on the matter.

Background Facts

The Employees spouse has severe labile juvenile diabetes mellitus. In August, 1982, she obtained an insulin infusion pump. The pump provides insulin by constant infusion for basal insulin requirements. The Plan Administrator has denied payment for the pump and its related supplies.

Question or Dispute

Is the Employer responsible for payment of charges for the insulin Infusion pump and the necessary supplies for use?

Position of Parties

Position of the Employee: The Employee feels that the charges for the insulin infusion pump and its related supplies are covered because the pump is not a convenience item and is not experimental.

Position of the Employer: The Plan Administrator contends that the denial of payment for the Employee's dependent's insulin infusion pump is consistent with the Trustees' decision in ROD 81-82 and that the supplies In question relate to "treatment with new technological medical

devices and therapy which are experimental in nature" and, therefore, are excluded from coverage according to Article III A (11) (a) of this 1981 Benefit Plan.

#### Pertinent Provisions

Article III. A. (11) (e) 24. of the Employer's Benefit Plan which provides as follows:

- (a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

24. Charges for treatment with new technological medical devices and therapy which are experimental in nature.

#### Discussion

Under Article III. A. (11) (a) 24. of the Employer's Benefit Plan, benefits are excluded for treatment with new technological medical devices and therapy which is experimental in nature. According to the information available to the Trustees, the use of an insulin infusion pump was still being researched and was considered to be experimental in August 1982, the time the pump was obtained by the Employee's spouse. In addition, at that time, insulin infusion pump therapy was not considered a covered benefit under the Federal Medicare program. Therefore, the Employee's spouse is not eligible for benefits under the Employer's Benefit Plan for the pump.

According to information available to the Trustees, however, the medical community decided that, at some point in 1983, insulin infusion pumps should be considered non-experimental for the treatment of a limited number of qualified individuals. Furthermore, Medicare consider ad insulin infusion pumps non-experimental for certain uses as early as July 1983. Because of this change in the status of insulin infusion pumps, the Employee's spouse may be eligible for coverage for some of the supplies, if the supplies were obtained after the status of insulin infusion pumps changed. Therefore, the Trustees do not comment on whether the Employer is responsible for payment for the supplies used by the Employee's spouse. Instead, the Trustees remand this question to the Employer for further consideration.

#### Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for payment of charges for the insulin infusion pump. The Trustees remand to the Employer the dispute as to coverage for the supplies necessary for use of the insulin infusion pump.