

OPINION OF TRUSTEES

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In Re

Complainant: Retiree  
Respondent: Employer  
ROD Case No: 81-358 - January 30, 1984

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 the responsibility of the Employer for the provision of health benefits coverage of ultrasound therapy for the Retiree by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Retiree was evaluated in his physician's office for complaints of chest, shoulder and arm pains. Physical examination at that time was positive for acute tenderness in the right and left shoulders involving the subdeltoid bursa and the long head of the biceps tendon (probably representing an acute tendonitis/bursitis of the shoulders). He was treated for this problem with anti-inflammatory and pain medication as well as physical therapy (including ultrasound). He responded to this treatment and had marked improvement of his problem. The Employer has denied coverage or the physical therapy charges related to the ultrasound therapy services provided to the Retiree.

Dispute

Is the Employer responsible for payment of charges for the Retiree's ultrasound therapy?

Positions of the Parties

Retiree's Position: The physical therapy treatments, including the ultrasound, were medically necessary and therefore should be a covered benefit.

Employer's Position: The Employer has stated in support of the denial of payment of the Retiree's ultrasound therapy charges that "... our policy covers what is outlined in the UMWA contract, and we are sorry but that is all we can cover."

### Pertinent Provisions

Article III A.(3) (h) of the Employer's Benefit Plan states:

(h) Home, Clinic and Office Visits

Benefits are provided for services rendered to a Beneficiary at home, in a clinic (including the outpatient department of a hospital), or in the physician's office for the treatment of illnesses or injuries, if provided by a physician.

### Discussion

Article III A.(3)"(h) of the Employer's Benefit Plan provides benefits for services rendered to a beneficiary in a physician's office for the treatment of an illness or injury, if provided by a physician. The information presented in this case establishes that the Retiree had an acute medical problem (bursitis/tendonitis) for which he was evaluated and treated by a physician.

As described in Dorland's Illustrated Medical Dictionary, physical therapy is the treatment of a disease by physical agents and methods to assist in the rehabilitation and restoration of normal bodily function after illness or injury, including the use of massage and manipulation, therapeutic exercises, hydrotherapy and various forms of energy (electrotherapy, actinotherapy and ultrasound). The disputed service in this case, ultrasound treatment, is described by Dorland as therapy using mechanical radiant energy (sound waves beyond 20,000 cycles per sound) to produce thermal effects which, when used therapeutically in controlled doses, can selectively breakdown pathologic tissues.

Since the ultrasound treatments the Retiree received are considered to be physical therapy and because they were prescribed for and provided by a physician in his office, they are a covered benefit under the Employer's Benefit Plan. The Employer is therefore responsible for payment of the charges for this service.

### Opinion of the Trustees

The Trustees are of the opinion that the Employer is responsible for payment of the charges for the ultrasound treatments provided to the Retiree in this case.