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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-405 - 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 payment of charges for orthopedic shoes, and hereby render their opinion on this matter.

### Background Facts

According to the information submitted, the Employee's son has moderately significant bilateral internal tibial torsion and tibia vara (club feet). He has been evaluated by a physician who indicated that the Employee's son would be best treated with a Dennis Brown Bar and high top reverse last pre-walking shoes to correct these deformities. The orthopedic shoes and the Dennis Brown Bar were purchased by the Employee for his son in accordance with the physician's recommendation. The Employer has paid for the cost of the Dennis Brown Bar but has denied payment for the orthopedic shoes.

### Dispute

Is the Employer responsible for payment of the charges for the Employee's son's orthopedic shoes?

### Positions of the Parties

Position of the Employee: The Employee contends that his son's orthopedic shoes should be a covered benefit under the Plan.

Position of the Employer: The charges for the shoes were denied because they were for stock orthopedic shoes and, although they were prescribed by a physician, they were not specifically constructed for the Employee's dependent. Therefore, they were specifically excluded from Plan coverage.

#### Pertinent Provisions

Article III A. (7) (a) 7 of the Employer's Benefit Plan states:

(a) Orthopedic and Prosthetic Devices

Benefits are provided for orthopedic and prosthetic devices prescribed by a physician when medically necessary.

7. Orthopedic shoes when specifically prescribed by a physician or licensed podiatrist for a Beneficiary according to orthopedist specifications, including orthopedic shoes attached to a brace that have to be modified to accommodate the brace. Benefits will not be provided for stock orthopedic shoes.

#### Discussion

Article III A. (7) (a) 7 of the Employer's Benefit Plan establishes that benefits are not provided for stock orthopedic shoes.

The billing provider, in this case, has advised this Employer that the shoes prescribed for the Employee's son are stock items.

Funds' staff contacted several providers of orthopedic shoes in an effort to corroborate the Employer's information. All providers contacted confirmed the fact that reverse last pre-walker shoes are stock orthopedic shoes.

Because the shoes prescribed for the Employee's son are stock orthopedic shoes the Employer is not responsible for providing benefits.

#### Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for the payment of charges for the Employee's son's orthopedic shoes.