

July 30, 1984

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

Re: Opinion of Trustees  
Resolution of Dispute  
Case No. 81-428

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 benefits for physician services provided to several Employees of Emery Mining Corporation and/or their dependents.

Under Article III A. (11) (a) 12 of the Employer's Benefit Plan, the Plan Administrator has the sole authority to determine whether a charge is excessive. The Trustees may, however, resolve disputes involving excessive fees to the extent that they may determine whether the Plan Administrator has adopted and applied reasonable procedures calculated to arrive at an excessive fee determination.

In these cases, the Plan Administrator determined that \$25.00 of a \$325.00 charge for surgery was excessive and that \$290.00 of a total of \$2,360.00 charges in seven anesthesia cases was excessive. (Subsequent to the time this ROD was filed, a partial adjustment by the Plan Administrator reduced the amount denied for the anesthesia charges to \$175.00.)

Based on the information submitted by the Employer with regard to the surgery case in dispute, the Trustees are of the opinion that the Plan Administrator used and applied reasonable procedures to arrive at an excessive fee determination in this instance. The Employer, therefore, is not obligated to pay the portion of the surgery charge denied as excessive.

In the anesthesia case, the Trustees are unable to conclude that the Plan Administrator used reasonable procedures to arrive at an excessive fee determination. We are, therefore, remanding these cases to the Plan Administrator to develop reasonable procedures to arrive at an excessive fee determination and to apply them to these cases.

With regard to both the surgery and anesthesia cases in dispute, the Trustees note that, in accordance with Article III A. (10)(g) of the Employer's Benefit Plan, the Employer and the UMWA have jointly agreed to help shield the beneficiary against providers who attempt to collect excessive charges.

Sincerely,

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Harrison Combs, Chairman

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John J. O'Connell, Trustee

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Paul R. Dean, Trustee