

---

OPINION OF TRUSTEES

---

In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-495 - September 24, 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 spina bifida and requires the use of orthopedic braces in order to walk or stand. This child wears orthopedic shoes which have been specifically modified and attached to the braces he uses. The Employer has paid the cost of the modification 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?

Position 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 orthopedic shoes and as such they are specifically excluded from coverage under the plan.

Pertinent References

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 has established that the orthopedic shoes at issue in this dispute are stock items. Funds staff contacted this provider and has verified this fact. In addition Funds staff also confirmed that these stock orthopedic shoes were specifically modified and attached to the child's brace.

Because the orthopedic shoes were attached to the child's brace and had to be modified to accommodate the brace, the Employer is responsible for providing payment for these shoes in accordance with Article III A. (7) (a) 7 of the Employer's Benefit Plan.

Opinion of the Trustees

The Employer is responsible for the payment of charges for the Employee's son's orthopedic shoes.