

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-643 - July 29, 1985

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 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 provision of health benefits for biofeedback therapy under the terms of the Employer Benefit Plan. They hereby render their opinion on the matter.

Background Facts

The Employee has been treated in the past for a duodenal ulcer. Because the Employee is thought to be a very intense individual, he was referred by his treating physician to the Department of Behavioral Medicine and Psychiatry at the West Virginia University to enter their biofeedback program. The Employee found this program beneficial but discontinued his participation in it because payment of this service was denied by the Plan. The Employee's physician believes that biofeedback therapy is medically indicated in this case to help prevent the Employee from becoming a chronic ulcer patient, with possible complications requiring extensive surgery and/or life threatening situations. The Employer has, in fact, denied payment for this service under the provisions of Q&A 81-42.

Dispute

Is the Employer responsible for payment of charges for biofeedback training for the treatment of the Employee's ulcer disease?

Positions of the Parties

Position of the Complainant: The Complainant contends that this therapy should be considered a covered benefit as an active treatment of his ulcer disease.

Position of the Respondent: The Respondent contends that the charges for biofeedback therapy the Employee underwent for the purposes of treating his ulcer disease were properly denied in accordance with the provisions in Q&A 81-42.

#### Pertinent Provisions

Article III A (11) (a) 24 of the Employer Benefit Plan provides:

- (a) In addition to the specific exclusions otherwise contained in this 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.

Q&A - 81-42 (Revised September 1983).

References: Amended 1950 and 1974 Benefit Plans and Trusts Article III A

(7) (f) and A (11) 24.

Question: Are benefits provided for biofeedback therapy?

Answer: Biofeedback therapy is generally a non-covered benefit. Biofeedback may be covered, however, when prescribed by a physician, and when it is reasonable and necessary for an individual patient for muscle re-education of specific muscle groups for treating pathological muscle abnormalities of spasticity, incapacitating muscle spasm or weakness and only when more conventional treatments (such as heat, cold, massage, exercise, support have been attempted and have not been successful.

Payment for biofeedback therapy, when covered, will be made only to a physician, clinic or hospital.

#### Discussion

Under Article III A (11) (a) 24 of the Employer Benefit Plan, charges for treatment with new technological medical devices and therapy which are experimental in nature are excluded from coverage. According to Q&A 81-42 (revised September 27, 1983) biofeedback therapy is generally a non-covered benefit except when certain criteria have been satisfied. This Q&A as amended is consistent with Medicare's current coverage guidelines for this therapy.

A Funds' medical consultant has reviewed the available information regarding the Employee's biofeedback therapy and has determined that the criteria for coverage established in Q&A 81-42 (revised September 27, 1983) have not been satisfied. The use of biofeedback therapy for the treatment of the Employee's ulcer disease does not fall within the specific clinical categories for which biofeedback therapy may be considered a covered benefit under the provisions of Q&A 81-42. The Employer, therefore, is not responsible for payment of the charges relative to the Employee's biofeedback therapy.

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Opinion of the Trustees

The Trustees are of the opinion that the Employer is not responsible for providing benefits for the Employee's biofeedback therapy used to treat his ulcer disease.