

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-656 - January 28, 1986

Board of Trustees: Joseph 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 health benefits coverage for surgical services.

Background Facts

The Employee's wife underwent surgery on June 1, 1984 at which time a caesarean section and a tubal ligation were performed concurrently. The surgeon charged \$1,150.00 for the first procedure and \$400.00 for the tubal ligation. The Employer determined that the tubal ligation did not warrant an additional charge and denied payment of the \$400 fee. In addition, upon review, the Plan Administrator determined that \$50.00 of the \$1,150.00 charge for the caesarean section was excessive.

Dispute

Is the Employer responsible for payment of the charge incurred by the Employee's spouse as a result of the tubal ligation, and has the Plan Administrator applied reasonable procedures to arrive at the excessive fee determination?

Position of the Parties

Employee's Position: The Employer is responsible for payment of the full charges incurred by the Employee's spouse as the result of her surgeries on June 1, 1984.

Employer's Position: The Employer contends that the fee for the tubal ligation did not warrant payment because it did not add significant additional time or complexity to the primary procedure, the caesarean section.

#### Pertinent Provisions

Article III. A. (3) (a) of the Employer Benefit Plan states that Surgical benefits are provided for surgical services essential to a beneficiary's care consisting of operative and cutting procedures (including the usual and necessary post-operative care) for the treatment of illness, injuries, fractures or dislocations which are performed either in or out of a hospital by a physician. When surgical services consist of necessary major surgery (primary) and the physician performs surgery additional to the primary surgery (incidental surgery), benefit payments for the incidental surgery will be provided but at a rate fifty percent lower than the physician's normal charge had he performed only the incidental surgery.

Article III. A. (11) (a) 12. of the Employer Benefit Plan provides that the Plan Administrator has the sole authority to determine whether a charge is excessive. Under an exemption granted by the Department of Labor, the Trustees have the authority to resolve disputes involving excessive fees to the extent that they may determine whether the Plan Administrator has adopted and applied reasonable procedures in making an excessive fee determination.

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#### Discussion

The Complainant underwent surgery on June 1, 1984, during which both a caesarean section and a tubal ligation were performed. The surgeon charged \$1,150.00 for the first procedure and \$400.00 for the incidental, or secondary, procedure. The Plan Administrator allowed \$1,050.00 for the caesarean section and denied payment for the tubal ligation, taking the position that no payment was warranted for a procedure which did not significantly increase the time or complexity of the primary procedure. Upon appeal, the excessive fee determination with regard to the caesarean section was reduced from \$100 to \$50, but the incidental surgical procedure was again denied for payment.

Secondary or incidental surgery is a procedure which is performed in conjunction with (i.e., during the same operating session, through either the same or a different incision, in either the same or a different operative field) a necessary major surgery and for which, if performed alone, benefits would be provided. The tubal ligation, performed in conjunction with a necessary major surgical procedure, the caesarean section, meets the definition of incidental surgery under Article III A (3) (a) of the Employer Benefit Plan. Therefore, the Respondent is responsible for payment of the charges resulting from the tubal ligation, with the rate of payment to be fifty percent of the surgeon's fee for the tubal ligation performed alone.

With regard to the excessive fee denial, the Plan Administrator provided to Funds' staff information relative to the methodology used in arriving at the determination that \$50 of the \$1,150 fee was excessive and explained how this methodology was applied in processing the

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claim involved in this dispute. Based on this information, it appears that the Plan Administrator applied reasonable procedures to arrive at the excessive fee determination. Thus the Respondent is not responsible for payment of the charges denied as excessive.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is not obligated to pay the portion of the charge denied as excessive. However, the Employer is responsible for payment of the charges for the secondary (incidental) procedure performed up to fifty percent of the reasonable and customary charge for the procedure.