

OPINION OF TRUSTEES

---

In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 84-316 - January 28, 1987

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 benefits for emergency room care under the terms of the Employer Benefit Plan.

Background Facts

On May 15, 1986, the Pensioner presented himself at the emergency room of a local hospital for treatment. The Pensioner claims that he sought emergency treatment because he was having severe difficulty in breathing and thought he might be having a heart attack. The emergency room record indicates that the Pensioner had a one-week history of a sore throat for which he was taking antibiotics and that he presented himself to the emergency room for further evaluation of his persistent sore throat. The Employer paid for the physician's charge but denied charges related to the use of the emergency room.

Dispute

Is the Employer responsible for payment of emergency room charges incurred on May 15, 1986?

Positions of the Parties

Position of the Employee: The Employee maintains that he sought emergency treatment for acute medical symptoms and that the emergency room charges should therefore be covered.

Position of the Employer: The Employer maintains that no acute medical symptoms existed when the emergency room treatment was sought and that the emergency room charges should therefore not be covered,

Pertinent Provisions

Article III.A. (2)(a) of the Employer Benefit Plan states:

Benefits are provided for a beneficiary who receives emergency medical treatment or medical treatment of an injury as the result of an accident, providing such emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of an accident.

#### Discussion

Article III.A. (2)(a) of the Employer Benefit Plan provides benefits for emergency medical treatment provided such treatment is rendered within 48 hours following the onset of acute medical symptoms. The emergency room record indicates that the Pensioner's chief complaint, a sore throat, had persisted for one week prior to the date he obtained the emergency room treatment. He had been placed on one antibiotic without results and had then been started on another antibiotic prior to visiting the emergency room. The record does not indicate that his medical symptoms had become acute or changed within the preceding 48 hours.

The Pensioner has stated that he sought emergency care because he was having trouble breathing and thought he was having a heart attack. However, the emergency room physician's report stated that the Pensioner was in no acute distress upon examination. Additionally, there is no evidence from the report that the Pensioner complained of breathing difficulties or any other symptoms except a sore throat.

A Funds' medical consultant has reviewed the clinical information presented in this case and advised that the symptoms were not acute and the clinical findings did not justify emergency medical treatment. Since the Pensioner's symptoms were not acute, and had not changed within the preceding 48 hours in such a manner that would indicate a potentially acute situation, the emergency room treatment is not a covered benefit.

#### Opinion of the Trustees

The Employer is not responsible for the payment of the emergency room charges incurred by the Pensioner on March 15, 1986.