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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-340 - September 21, 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 health benefits coverage for a motorized chair under the terms of the Employer Benefit Plan.

### Background Facts

The Employee's 60-year-old spouse has cerebral palsy, spastic paraplegia, congenital dislocation of both hips with total hip replacements, back pain and spondylolisthesis, a dislocation of the lower lumbar vertebrae on the sacrum. The Employee's spouse reports that she is unable to ambulate but that, when absolutely necessary, she will take a few steps with the use of a walker for toileting purposes, although she is reluctant to use a walker for fear of falling. She says that her arthritic condition prevents her from operating a standard wheelchair, and an electric wheelchair is impractical for their trailer home. She obtained a three-wheeled motorized chair for her use. The medical equipment supplier which provided the motorized chair submitted a claim form to the Employer's insurance carrier for payment of benefits; the claim was accompanied by a much outdated "certificate of medical necessity." The Employer denied coverage for the motorized chair on the grounds that medical necessity had not been established.

### Dispute

Is the Employer responsible for providing benefits for the motorized chair?

### Positions of the Parties

Position of the Employee: The Employer is responsible for paying benefits for the motorized chair because it is medically necessary for the Employee's spouse. She needs a motorized chair because she is unable to operate a manual wheelchair and because it will facilitate her ability to do her activities of daily living.

Position of the Employer: The Employer is not responsible for paying benefits for the motorized chair because a physician has not determined it to be medically necessary as stipulated under Article III. A. (6)(d) of the Employer Benefit Plan. The medical reports subsequently submitted to the Employer are over ten years old; no medical reports pertaining to the Employee's spouse's current condition have been provided. Furthermore, the Employee reported to the Employer that the motorized chair was bought for outside use only; therefore, it would not be a covered item under the Plan.

#### Pertinent Provisions

Article III. A. (6)(d) of the Employer Benefit Plan states:

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A 81-38 states:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trusts, Article III, Section A (6) (d) and (e), and A (7) (a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:

1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheel chairs.

2. Medical supplies necessary to maintain homebound or bedridden Beneficiaries. Examples of covered supplies are enema supplies, disposable sheets and pads (also called "Chux" or "blue Pads"), supplies for home management of open or draining wounds, heating pads (for therapeutic use only) and insulin needles and syringes.
3. Oxygen, as specified in Article III, Section A (6) (e).

#### Discussion

Under Article III. A. (6) (d) of the Employer Benefit Plan, benefits are provided for medical equipment suitable for home use when determined by a physician to be medically necessary. Q&A 81-38 states that covered durable medical equipment is equipment that a) can withstand use, b) is primarily and customarily used to service a medical purpose, c) generally is not useful to a person in the absence of an illness or injury and d) is appropriate for use in the home.

The Employee's spouse states that a motorized, three-wheeled chair is necessary because she cannot operate a standard wheelchair and because an electric wheelchair would be impractical for their trailer home. The claim for payment of benefits for the motorized chair was submitted to the Employer's insurance carrier by the medical equipment supplier which provided the chair. The claim was accompanied by an outdated "certificate of medical necessity" ("CMN").

When initiating this Resolution of Dispute case, the Employee enclosed medical records on his spouse from the period, 1973 to 1975. The records establish that the Employee's spouse had cerebral palsy, spastic paraplegia, and congenital dislocation of both hips with total replacements (in 1973 and 1974). There were no medical records submitted which were more recent than 1975, and the record contains no documentation addressing any changes in the Employee's spouse's condition since 1975.

Funds' staff requested that a current CMN be submitted by the Employee. This most recent CMN is dated March 2, 1987 -- some 15 months after the Employee's spouse obtained the motorized chair (on November 14, 1985) -- and bears the signature of an orthopedic physician. According to this CMN, the Employee's spouse has cerebral palsy, spastic paraplegia, congenital dislocation of both hips with total replacement of both hips, back pain, and spondylolisthesis; she cannot use a standard wheelchair because of her condition. However, apart from the completion of a CMN, there is no evidence that the orthopedic physician has examined or treated the Employee's spouse.

A Funds' medical consultant reviewed the documentation including the second CMN and advised that the medical necessity for a motorized, three-wheeled chair has not been established; that motorized chairs are most often used out-of-doors and therefore may not be the most appropriate

Opinion of Trustees  
Resolution of Dispute  
Case No. 84-340  
Page 4

device for use in a trailer home; and that other, more appropriate devices for assisting with in-home ambulation may be available to assist the Employee's spouse.

Based on the medical records and CMNs submitted by the Employee and the medical equipment supplier, the medical necessity and appropriateness of the motorized chair have not been established. Therefore, the motorized chair is not covered by the Employer Benefit Plan in this case.

Opinion of the Trustees

The Employer is not responsible for providing benefits for the Employee's spouse's motorized chair.