

OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 84-482 - January 11, 1988

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 nursing services under the terms of the Employer Benefit Plan.

Background Facts

The Pensioner's spouse has had Alzheimer's disease since about 1977. She was admitted to a rest home on October 19, 1986, where she was a patient until January 31, 1987. At that time, placement in a nursing home was recommended and she was placed in an intermediate care nursing facility, Bell Nursing Home. In June of 1987, the family proposed to move the patient to another nursing facility and sought to determine if the Employer Benefit Plan would cover the care in a skilled nursing facility. An oral commitment was made on May 28, 1987 by the carrier to provide coverage for the patient's care. A letter dated May 29, 1987 was sent to the Pensioner's nephew explaining that Bell Nursing Home had been requested to send the Employer copies of the patient's nursing notes and care plan. On June 12, 1987, the Pensioner's spouse was moved to the intermediate care unit of a skilled nursing facility. On June 22, 1987, the carrier informed the family that prior approval had been granted by the Plan Administrator for the patient's stay at this facility.

The Employer states that it originally granted prior approval for the patient in a skilled nursing facility. However, when the Employer learned that the Pensioner's spouse was receiving custodial care in an intermediate care unit, it notified the Pensioner on June 24, 1987 that custodial care is not a covered benefit under the Employer Benefit Plan. The Pensioner was also notified that coverage for the care would be provided for the month of June, but that thereafter other arrangements should be made for her custodial care. The Pensioner has not moved the patient from the present facility.

Dispute

Is the Employer responsible for charges related to the nursing home services rendered the Pensioner's spouse?

### Positions of the Parties

Position of the Pensioner: The Employer is responsible for payment of the charges related to nursing home services rendered the Pensioner's spouse.

Position of the Employer: The Employer is not responsible for payment of the charges incurred in the nursing facility because the Pensioner's spouse's confinement is for custodial care which is specifically excluded from coverage under the terms of the Employer Benefit Plan.

### Pertinent Provisions

Article III. A. (5) of the Employer Benefit Plan states:

(5) Skilled Nursing Care and Extended Care Units

(a) Skilled Nursing Care Facility

Upon determination by the attending physician that confinement in a licensed skilled nursing care facility\* is medically necessary, to the extent that benefits are not available from Medicare or other State or Federal programs, benefits will be provided for:

1. skilled nursing care provided by or under the supervision of a registered nurse;
2. room and board;
3. physical, occupational, inhalation and speech therapy, either provided or arranged for by the facility;
4. medical social services;
5. drugs, immunizations, supplies, appliances, and equipment ordinarily furnished by the facility for the care and treatment of inpatients;
6. medical services, including services provided by interns or residents in an approved, hospital-run training program, as well as other diagnostic and therapeutic services provided by the hospital; and
7. other health services usually provided by skilled nursing care facilities.

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\*Skilled nursing care facility is limited to a skilled nursing care facility which is licensed and approved by Federal Medicare.

The Plan will not pay for services in a nursing care facility:

1. that is not licensed or approved in accordance with state laws or regulations;
2. unless the service is provided by or under the direct supervision of licensed nursing personnel and under the general direction of a physician in order to achieve the medically desired results.

Exclusions:

Telephone, T.V., radio, visitor's meals, private room or private nursing (unless necessary to preserve life, custodial care, services not usually provided in a skilled nursing facility.

(b) Extended Care Units

Benefits are provided for up to two weeks of specialized medical services and daily treatments by licensed personnel in extended care units. When medically necessary, benefits may be provided for a longer period of time, subject to approval from the Plan Administrator.

The Plan will not pay for services in an extended care unit unless, in the case of a Medicare patient, such extended care has prior approval of Medicare.

Exclusions:

1. Services, drugs or other items which are not covered for hospital inpatients.
2. Custodial care.

Discussion

Under Article III. A. (5) of the Employer Benefit Plan, benefits are provided for skilled nursing care only if the nursing care is rendered in a licensed skilled nursing care facility which is approved under the federal Medicare program and if skilled nursing care is required by the patient. Benefits for custodial care are specifically excluded.

Prior approval was initially given orally in late May, and in writing in June. However, after conducting a review of medical reports and nursing notes submitted by the nursing home the patient left in early June, the Plan Administrator found that the patient neither required nor had been receiving skilled nursing care, and the Pensioner was notified that coverage would be provided for June only.

Although the facility in which the Pensioners' spouse is confined is a skilled nursing care facility, she was admitted to and continues to receive care in the intermediate care unit of this facility; she has not received care in a skilled care unit. On this basis, the Pensioner's spouse does not qualify for skilled nursing care benefits under the Employer Benefit Plan. Therefore, the Employer is not responsible for providing benefits for the nursing home services rendered the Pensioner's spouse beyond the one-month period it agreed to cover.

#### Opinion of the Trustees

The Employer is not responsible for reimbursement for custodial care received by the Pensioner's spouse in the intermediate care unit of a skilled nursing facility because such treatment does not meet the requirements of Article III. A. (5)(a) and (b) for coverage under the Employer Benefit Plan.