

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-656 - August 30, 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 benefits for custom-made ear plugs for an Employee's dependent under the terms of the Employer Benefit Plan.

Background Facts

The Employee's dependent son had chronic otitis media, an inflammation of the middle ear marked by pain, fever, dizziness and abnormalities of hearing. The child had myringotomy tubes inserted in both ears in May 1985. These tubes were inserted through the tympanic membrane (eardrum) and function as a drain between his inner and outer ear. The child's physician has prescribed custom-made ear plugs and states that they are medically necessary to prevent water from entering the child's ear canals whenever he is around water.

Dispute

Is the Employer responsible for providing benefits for the Employee's son's custom-made ear plugs?

Positions of the Parties

Position of the Employee: The Employer is responsible for providing benefits for the Employee's son's custom-made ear plugs because the ear plugs are necessary to prevent water from entering the child's ear canals.

Position of the Employer: The Employer has not replied to repeated correspondence from Funds' staff requesting its position in this dispute.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states:

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan.

#### Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The Introduction further states that the fact that a procedure or level of care is prescribed by a physician does not mean that it is covered under this Plan.

In this case, the physician stated that the Employee's son's custom-made ear plugs are necessary to prevent water from entering his ear canals and blocking the myringotomy tubes. However, a Fund's medical consultant has reviewed the case and has advised that the medical necessity for custom-made ear plugs has not been established. Wax ear plugs that mold to fit the wearer's ears would serve the same purpose and could be provided at a lower cost.

#### Opinion of the Trustees

The Employer is not responsible for providing benefits for the Employee's son's custom-made ear plugs.