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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-657 - September 26, 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 organ transplant surgery for the Employee's spouse under the terms of the Employer Benefit Plan.

### Background Facts

On August 1, 1987, the Employee's spouse underwent a kidney transplant. Eight days after the transplant, the kidney was rejected and she had additional surgery to remove the kidney. The Employee's spouse states that she had called the insurance carrier numerous times to make sure that the transplant would be covered and was told that the Employer would provide coverage for the transplant. She said that the insurance carrier's representatives told her that she did not need to do anything else to get the transplant approved. The Employee's spouse states that she does not remember the dates of her calls to the carrier. The Employee contends that the Employer is responsible for payment of the charges related to her kidney transplant.

Although the Employee's spouse's medical expenses were largely paid by Medicare, the Employer has denied coverage of the remaining charges for the organ transplant because prior approval was not obtained from the Plan Administrator.

### Dispute

Is the Employer responsible for payment of the charges incurred by the Employee's spouse as a result of her organ transplant surgery on August 1, 1987?

### Positions of the Parties

Position of Employee: The Employer is responsible for payment of the charges incurred by the Employee's spouse as a result of her organ transplant surgery on August 1, 1987 because she obtained prior approval from the Employer's

Position of the Employer: The Employer is not responsible for payment of the charges incurred by the Employee's spouse as a result of her organ transplant surgery on August 1, 1987 because prior approval of the Plan Administrator was neither requested nor granted.

#### Pertinent Provisions

Article III. A. (3)(f) of the Employer Benefit Plan states:

(3) Physicians' Services and Other Primary Care

(f) Surgical Services Limitations

Benefits are not provided for certain surgical services without prior approval of the Plan Administrator. Such surgical procedures include, but are not limited to, the following:

Plastic surgery, including mammoplasty  
Reduction mammoplasty  
Intestinal bypass for obesity  
Gastric bypass for obesity  
Cerebellar implants  
Dorsal stimulator implants  
Prosthesis for cleft palate if not covered by crippled children services  
Organ transplants

#### Discussion

Article III. A. (3)(f) of the Employer Benefit Plan provides benefits for certain surgical services, including organ transplants, subject to prior approval of the Plan Administrator. The Employee's spouse alleges that she was advised by the Employer's insurance carrier that her kidney transplant would be covered and that no further action was necessary to obtain approval.

In response to inquiries from Funds' staff, the Employer stated that there are clearly established procedures for obtaining prior approval. The Employer Benefit Plan booklet provided to all Employees indicates in Article III. A. (3)(f) that the Plan Administrator is to be contacted for prior approval. According to the Employer, an Employee would normally contact a benefits counselor at his work place for prior approval and would be provided a form

to submit in advance of the requested organ transplant surgery. If an Employee called the insurance carrier instead, the carrier would make a record of the request, advise the Employee that a form must be filled out in advance of the surgery and tell the Employee to contact the local site benefits counselor or the Plan Administrator concerning the request. According to the Employer, its procedures for obtaining prior approval have been in place since the beginning of the 1984 Coal Wage Agreement. The 1981 Coal Wage Agreement also contained a requirement for prior approval; however, according to the Plan Administrator, it has probably been more strictly enforced under the 1984 Agreement. While the Employee's spouse maintains she contacted the Employer's carrier to determine whether her kidney transplant would be covered, there is no evidence to support her contention that prior approval was requested or granted.

The Trustees have previously decided in RODs 81-404, 84-245, and 84-500 (copies enclosed herein) that when prior approval is required under the terms of the Employer Benefit Plan and is not requested, the Employer is not responsible for providing benefits, even though the services in question may otherwise be covered services. Therefore, because prior approval of the Plan Administrator was not requested in this case, as required under Article III. A. (3)(f) of the Plan, the Employer is not responsible for providing benefits for the Employee's spouse's kidney transplant.

#### Opinion of the Trustees

The Employer is not responsible for payment of the charges incurred by the Employee's spouse as a result of her organ transplant surgery on August 1, 1987.