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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-695 - April 19, 1989

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 September 12, 1987, the Employee's nine-year-old daughter was taken to a hospital emergency room for medical evaluation and treatment. According to the emergency room record, the Employee's daughter complained of an ear ache, sore throat, and fever. The record indicates the child's symptoms had begun the previous day. The emergency room physician diagnosed the Employee's daughter's condition as pharyngotonsillitis, an inflammation of the throat and tonsils, and prescribed an antibiotic and decongestant.

On January 31, 1988, the Employee's daughter was again taken to a hospital emergency room for evaluation and treatment. According to the emergency room record, the Employee's daughter complained of an ear ache, fever, cough, and chest discomfort. The onset of the symptoms was recorded as the day of the emergency room visit. The emergency room physician diagnosed the Employee's daughter's condition as pharyngitis (a sore throat) and an upper respiratory infection and prescribed an antibiotic and decongestant.

The Employer denied the charges related to the use of the emergency room for both visits.

### Dispute

Is the Employer required to pay the emergency room charges resulting from the Employee's daughter's evaluation and treatment on September 12, 1987 and January 31, 1988?

### Positions of the Parties

Position of the Employee: The Employer is required to pay the emergency room charges for the September 12, 1987 and January 31, 1988 visits because the Employee's daughter needed emergency medical treatment.

Position of the Employer: The Employer is not required to pay the emergency room charges for the September 12, 1987 and January 31, 1988 visits because the Employee's daughter did not exhibit acute medical symptoms requiring emergency medical treatment on either of the visits.

#### Pertinent Provisions

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

(2) Outpatient Hospital Benefits

(a) Emergency Medical and Accident Cases

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

#### Discussion

Under Article III. A. (2) (a) of the Employer Benefit Plan, benefits are provided for emergency medical treatment when it is rendered within 48 hours following the onset of acute medical symptoms.

A Funds' medical consultant has reviewed the clinical information pertaining to both emergency room visits in question. The September 12, 1987 emergency room record indicates that the child had an inflammation of the throat and tonsils only. The consultant advises that no evidence suggests that the symptoms were severe enough to warrant emergency medical treatment.

The January 31, 1988 emergency room record indicates that the child had experienced ear ache, fever, cough, and chest discomfort. The consultant advises that the child's symptoms did not include any acute respiratory symptoms that would require emergency medical treatment.

Because the Employee's daughter did not suffer from acute medical symptoms on September 12, 1987 or January 31, 1988, emergency treatment was not required on either visit to the emergency room.

#### Opinion of the Trustees

The Employer is not required to pay the emergency room charges resulting from the Employee's daughter's evaluation and treatment on September 12, 1987 and January 31, 1988.