

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-092 - April 10, 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 June 28, 1988, the Employee sought treatment at a hospital emergency room for a sprained right ankle. The Employee states that he reinjured his right ankle on July 5, 1988, and he returned to the emergency room for treatment the following day. A recurrence of pain and swelling in the Employee's right ankle was noted in the emergency room record of July 6, 1988. However, the emergency room record does not document the alleged July 5 reinjury. The Employer provided coverage for the June 28, 1988 emergency room visit and denied the charges related to the use of the emergency room on July 6, 1988.

Dispute

Is the Employer required to pay the emergency room charge resulting from the Employee's evaluation and treatment on July 6, 1988?

Positions of the Parties

Position of the Employee: The Employer is required to pay the emergency room charge resulting from the Employee's evaluation and treatment on July 6, 1988 because treatment was sought within 48 hours after the Employee reinjured his ankle.

Position of the Employer: The Employer is not required to pay the emergency room charge incurred on July 6, 1988 because treatment was not rendered within 48 hours of a documented injury and because the Employee did not exhibit acute medical symptoms.

#### Pertinent Provisions

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

(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 or the occurrence of an accident. Q&A 81-85 (copy attached) states that, if a beneficiary requires and receives emergency room treatment within 48 hours of the onset of acute medical symptoms and the acute symptoms subsequently reappear, benefits may be provided for further emergency medical treatment if it is rendered within 48 hours of the reappearance of the acute symptoms.

The physician's notes from the emergency room visit on July 6 indicate that pain and swelling in the patient's right ankle had increased the day before the July 6, 1988 visit. The radiology report of x-rays taken on July 6, 1988 indicates that the Employee had a soft tissue injury of the right ankle. A Funds' medical consultant has reviewed the emergency room records and has advised that the July 6, 1988 emergency room visit was prompted by a recurrence of acute medical symptoms and that emergency medical treatment was provided within 48 hours of such recurrence. Accordingly, the Trustees find the Employer is required to pay the emergency room charge resulting from the Employee's evaluation and treatment on July 6, 1988.

#### Opinion of the Trustees

The Employer is required to pay the emergency room charge resulting from the Employee's evaluation and treatment on July 6, 1988.