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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-135 - September 26, 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 level of health benefits provided for medical services under the terms of the Employer Benefit Plan.

### Background Facts

The Employee has low back pain resulting from degenerative disc disease and has a medical history significant for borderline diabetes and epilepsy. An orthopedic surgeon recommended treatment consisting of a work capacity evaluation and work hardening program. The Employee participated in the work hardening program at a rehabilitation and fitness institute from September 22, 1987 through October 31, 1987, five days per week, four hours per day. The program consisted of a series of gradually progressive, work-related activities designed to recondition the Employee's musculoskeletal, cardio-respiratory and psychomotor systems to prepare him to return to work.

The Employer denied benefits for the expenses incurred by the Employee from September 22, 1987 through October 31, 1987 during his treatment in the work hardening program.

### Dispute

Is the Employer required to provide benefits for the expenses incurred by the Employee during his participation in the work hardening program from September 22, 1987 through October 31, 1987?

### Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the therapy and rehabilitation services received by the Employee in the work hardening program because they were prescribed by a physician for the treatment of his degenerative disc disease.

Position of the Employer: The Employer Benefit Plan provides benefits for physical therapy that is medically necessary for the treatment of an illness or injury and that is designed to restore functions lost or reduced by illness or injury. The Employee's treatment in the work hardening program is not a covered benefit because the program stresses muscle conditioning, not the restoration of functions lost or reduced by illness or injury.

#### Pertinent Provisions

Article III. A. (7) (b) of the Employer Benefit Plan states:

(7) Other Benefits

(b) Physical Therapy

Benefits are provided for physical therapy in a hospital, skilled nursing facility, treatment center, or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician and administered by a licensed therapist. The physical therapy treatment must be justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration.

Article III. A. (11) (a) 27. of the Employer Benefit Plan states:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

27. Any types of services, supplies or treatments not specifically provided by the Plan.

#### Discussion

Under Article III. A. (7) (b) of the Employer Benefit Plan, benefits are provided for physical therapy in a hospital, skilled nursing facility, treatment center or in the Beneficiary's home. Such therapy must be prescribed and supervised by a physician, administered by a licensed therapist, and justified on the basis of diagnosis, medical recommendation and attainment of maximum restoration. Article III. A. (11) (a) 27. of the Plan states that, in addition to the

specific exclusions otherwise contained in the Plan, benefits are also not provided for any types of services, supplies or treatments not specifically provided by the Plan.

The Employee participated in a work hardening program described by the provider as a team-oriented approach to returning injured workers safely to their job tasks. The Employee in this case had not been injured, but suffers from low back pain resulting from degenerative disc disease. The services the Employee received in this work hardening program included work capacity evaluations, strengthening exercises to condition the muscles used in his work, cardiovascular training, and job simulated activities emphasizing proper body mechanics to prepare him for return to work. A Funds' medical consultant has reviewed the information submitted in this case and advises that the purpose of the services provided was to improve the patient's physical fitness and to condition the muscles used in his work through job simulation. The consultant further stated that this program provided general physical conditioning, rather than rehabilitative physical therapy, specifically directed at treating a medical condition. Because benefits are not provided for any types of treatments not specifically provided by the Plan, the Employer is not required to provide benefits for the expenses incurred by the Employee for physical conditioning.

Opinion of the Trustees

The Employer is not required to provide benefits for the expenses incurred by the Employee during his participation in the work hardening program from September 22, 1987 through October 31, 1987.