

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-167 - March 28, 1990

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 payment of benefits for a private hospital room under the terms of the Employer Benefit Plan.

Background Facts

The Employee's dependent daughter was hospitalized from March 6, 1988 through March 30, 1988 for drug and alcohol rehabilitation. The Employee's daughter's physician states that she needed to be kept under close observation because of recurrent suicidal threats and attempts to cut her wrist. As a result, she was in a private room from March 6 through March 8, 1988 and from March 20 through March 30, 1988.

The Employer paid the room charges at the semi-private rate and denied payment of the extra charges for a private room.

Dispute

Is the Employer required to pay the full charges for a private room during the Employee's daughter's hospitalization?

Positions of the Parties

Position of the Employee: The Employer is required to pay the full charges for a private room during the Employee's daughter's hospitalization because a private room was medically necessary. If it is determined that the private room was not medically necessary, the Employer should hold the Employee harmless from the hospital's attempt to collect those charges.

Position of the Employer: The Employer is not required to pay the full charges for a private room because it has not been established that the Employee's daughter's condition required her to be isolated for her own health or for that of others, or that a private room was medically

necessary. Article III. A. (11) (a) 10. of the Employer Benefit Plan excludes benefits for private room charges, except as specifically described in the Plan. Since the private room used in this case is not a covered benefit according to Plan provisions, it is not subject to the hold harmless provision.

#### Pertinent Provisions

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

#### Article III - Benefits

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. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of questionable current usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III. A. (1)(c) of the Employer Benefit Plan states:

#### (c) Private Room

For confinement in a private room, benefits will be provided for the hospital's most common charge for semi-private room accommodations and the Beneficiary shall be responsible for any excess over such charge except that private room rates will be paid when (i) the Beneficiary's condition requires him to be isolated for his own health or that of others, or (ii) the hospital has semi-private or less expensive accommodations but they are occupied and the Beneficiary's condition requires immediate hospitalization. Semiprivate room rates, not private room rates, will be paid beyond the date a semi-private room first becomes available and the Beneficiary's condition permits transfer to those accommodations.

Article III. A. (10) (g) 3. of the Employer Benefit Plan states:

(g) Explanation of Benefits (EOB) Cost Containment and Hold Harmless

3. The Employer and the UMWA agree that excessive charges and escalating health costs are a joint problem requiring a mutual effort for solution. In any case in which a provider attempts to collect excessive charges or charges for services not medically necessary, as defined in the Plan, from a Beneficiary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the provider. Whether the Plan Administrator or his agent negotiates a resolution of a matter or defends a legal action on a Beneficiary's behalf, the Beneficiary shall not be responsible for any legal fees, settlements, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided under the Plan. The Plan Administrator or his agent shall have sole control over the conduct of the defense, including the determination of whether the claim should be settled or an adverse determination should be appealed.

Article III. A. (11) (a) 10. 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:

10. Charges for private room confinement, except as specifically described in the 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. Under Article III. A. (1)(c) of the Employer Benefit Plan, benefits are provided for a hospital's most common charge for semi-private room accommodations, and the Beneficiary is responsible for any excess over such charge except that private room rates will be paid when the Beneficiary's condition requires him to be isolated for his own health or that of others, or the hospital has semi-private or less expensive accommodations but they are occupied and the Beneficiary's condition requires immediate hospitalization. Article III. A. (11) (a) 10. of the

Employer Benefit Plan states that charges for private room confinement, except as specifically described in the Plan, are excluded from coverage.

In this case, the treating physician states that the Employee's daughter had to be kept under close observation because of recurrent suicidal threats. A Funds' medical consultant has reviewed the information submitted in this file and advised that the information provided does not explain why a private room was used for patient observation. The consultant states that there is no documentation to establish that the patient could not have been closely observed in other room accommodations or that she required isolation in a private room for her own health or that of others or that a private room was otherwise medically necessary. Because it has not been established that the private room charges in this case were incurred under the circumstances described in Article III. A. (1)(c), the private room charges in excess of the semi private room rate are not covered under the terms of the Employer Benefit Plan.

The issue now is whether the Employer is required to hold the Employee harmless from the hospital's attempt to collect those charges. Article III. A. (10)(g) 3., which is known as the Plan's "Hold Harmless" provision, provides that the Plan Administrator shall attempt to negotiate with or defend the Employee against providers who seek to collect excessive charges or charges for services not medically necessary. Whether the Employer negotiates a resolution or defends a legal action, the Employee is not responsible for any expenses in connection with such charges, but may be liable for services that are not provided under the Plan. In this case, the non-covered benefit was unnecessarily prescribed by the physician and not received at the request of the patient, and the Employee should be held harmless.

#### Opinion of the Trustees

The Employer is not required to pay the full charges for a private room during the Employee's daughter's hospitalization. The Employer should hold the Employee harmless from the hospital's attempts to collect the charges in dispute in this case.