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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-209 - 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 the provision of benefits for the Employee's daughter's collagen injections under the terms of the Employer Benefit Plan.

Background Facts

The Employee's daughter's physician states that the Employee's twenty-one-year-old daughter had a skin disease, referred to as a morphea, which, in the process of clearing, left a depression on the left side of her face. Her physician referred her to a specialist in plastic and reconstructive surgery who evaluated her hemifacial depression on May 16, 1988 and told her that treatment options included injections of collagen, which might produce a satisfactory correction on a temporary basis, and microvascular tissue transfers. The Employee's daughter chose treatment with collagen injections, which she received on June 13, 1988, June 27, 1988, July 18, 1988 and August 3, 1988. In a letter dated November 11, 1988, the plastic surgeon stated that the collagen injections were not for cosmetic purposes but were for the correction of an abnormality due to a systemic disease.

Initially, the Employer provided benefits for the collagen treatments rendered on June 13, 1988 and July 18, 1988, but its insurance carrier later requested reimbursement from the specialist, and the payment was returned. The Employer denied payment for the treatments rendered on June 27, 1988 and August 3, 1988.

Dispute

Is the Employer required to pay for the collagen treatments the Employee's daughter received on June 13, 1988, June 27, 1988, July 18, 1988 and August 3, 1988?

Positions of the Parties

Position of the Employee: The Employer is required to pay for the collagen treatments the Employee's daughter received because they were not for cosmetic purposes but were for the correction of an abnormality caused by a systemic disease.

Position of the Employer: The Employer is not required to pay for the collagen treatments the Employee's daughter received because the treatment was not provided to correct the results of an accidental injury or a birth defect and because prior approval was neither requested by the Employee nor granted by the Plan Administrator, as required for coverage under the Employer Benefit Plan.

### Pertinent Provisions

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

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.

Article III. A. (3)(f) and (p) 9. of the Employer Benefit Plan state:

(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

(p) Services Not Covered

9. Cosmetic surgery, unless pertaining to surgical scars or to correct results of an accidental injury or birth defects.

#### Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services are those that are reasonable and necessary for the diagnosis or treatment of an illness or injury. Additionally, Article III. A. (3)(f) of the Plan states that benefits are not provided for certain surgical services, including plastic surgery, without prior approval of the Plan Administrator. Article III. A. (3)(p) 9. states further that cosmetic surgery is not covered unless it is performed to correct surgical scars or to correct results of an accidental injury or birth defect.

In this case, injections of collagen were administered to correct a depression on the left side of the Employee's daughter's face. The Employee has not disputed the Employer's statement that prior approval was neither requested by the Employee nor granted by the Plan Administrator. A Funds' medical consultant has reviewed the information submitted in this case and advised that the abnormality, which was corrected with the collagen injections, was caused by a disease, the morphea. However, the consultant states that the collagen injections were not medically necessary to treat the disease process. The consultant is of the opinion that the surgical treatments performed were cosmetic in nature and were not performed to correct surgical scars or to correct results of an accidental injury or birth defects. Inasmuch as, the Employee's daughter's collagen treatments were cosmetic in nature and were not performed to correct surgical scars or the results of an accidental injury or birth defect, they are not covered benefits under the Employer Benefit Plan.

#### Opinion of the Trustees

The Employer is not required to provide benefits for the collagen treatments received by the Employee's daughter on June 13, 1988, June 27, 1988, July 18, 1988 and August 3, 1988.