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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-249 - June 19, 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 psychological evaluation and therapy under the terms of the Employer Benefit Plan.

### Background Facts

The Employee sought treatment from a licensed clinical psychologist on August 30, 1988. The Employee was evaluated by the psychologist on August 30, 1988 and September 12, 1988 and had twenty-three individual psychotherapy sessions and eight group psychotherapy sessions from September 21, 1988 through November 13, 1989. The services were provided at a licensed outpatient drug and alcohol clinic. The Employee has submitted a letter dated January 9, 1990 from his physician stating that on August 29, 1989 he treated the Employee who was "suffering from depression" and recommended that "he be examined by a psychologist."

The Employer provided benefits for the first fifteen visits (from August 30, 1988 through January 10, 1989), then additional information was requested, including a physician's referral for the Employee's treatment, a plan of treatment, a list of current medications and a list of the therapist's credentials, before claims for subsequent visits were processed. The Employer stated that it received a letter dated August 29, 1989 from the Employee's physician who recommended that the Employee "be examined by a psychologist."

The Employer states that it also received letters indicating that the Employee was being treated for alcohol dependence, but the treatment provided was not billed as an alcohol rehabilitation program. The Employer states that, if the services rendered were part of an alcohol rehabilitation program, there should have been an advance determination that the Employee is a good candidate for rehabilitation, as required by the Employer Benefit Plan. The Employer determined that the medical necessity for the Employee's treatment had not been established, and it denied benefits for the psychotherapy services rendered after January 10, 1989. The Employer

further states that benefits were erroneously provided for the period beginning August 30, 1988 and ending January 10, 1989.

### Dispute

Is the Employer required to provide benefits for the Employee's psychological evaluation and individual and group psychotherapy sessions?

### Positions of the Parties

Position of the Employee: The Employer is required to provide health benefits for the Employee's psychological evaluation and individual and group psycho-therapy sessions because the Employee knew that he was suffering from depression and that a clinical psychologist could best treat his condition, he was not familiar with the provisions of the Plan relative to his condition, and he eventually did receive a referral from a physician.

Position of the Employer: The Employer is not required to provide health benefits for the Employee's psychological evaluation and individual and group psychotherapy sessions because the medical necessity of the services has not been established and, if the services rendered were an alcohol rehabilitation program, there should have been an advance determination that the Employee is a good candidate for rehabilitation, as required by the Plan.

### 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. (7)(f) of the Employer Benefit Plan states:

(7) Other Benefits

(f) Outpatient Mental Health, Alcoholism, and Drug Addition

Benefits are provided for:

Psychotherapy, psychological testing, counseling, group therapy and alcoholism or drug rehabilitative programs where free care sources are not available and when determined to be medically required by a physician.

Benefits are not provided for:

1. Encounter and self-improvement group therapy.
2. Custodial care related to mental retardation and other mental deficiencies.
3. School related behavioral problems.
4. Services by private teachers.
5. Alcoholism and drug rehabilitation if an advance determination has not been made by the rehabilitation team that the Beneficiary is a good candidate for rehabilitation.
6. Alcoholism and drug rehabilitation programs not approved by Medicare.

Discussion

According to the Introduction to Article III of the Employer Benefit Plan, 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. 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. The Introduction further states that services that are not reasonable and necessary shall include procedures which are not ordered by a physician. Under Article III. A. (7)(f) of the Plan, benefits are provided for psychotherapy, psychological testing, counseling, group therapy and alcoholism or drug rehabilitative programs when free care sources are not available and when determined to be medically required by a physician.

In this case, the Employee sought treatment from a clinical psychologist, who evaluated him on August 30, 1988 and September 12, 1988 and treated him during twenty-three individual

psychotherapy sessions and eight group psychotherapy sessions between September 21, 1988 and November 13, 1989. After additional information was requested from the Employee concerning the services rendered, the Employee submitted a letter dated August 29, 1989 from his physician who recommended only that the Employee "be examined by a psychologist." In a second letter dated January 9, 1990, the same physician stated that he had examined the Employee on August 29, 1989. The physician further stated that "at that time" the patient was "suffering from depression" and the physician recommended that he "be examined by a psychologist." The statements from the Employee's physician were made on the basis of an examination nearly one year after the date the Employee began seeing the psychologist. Neither of the letters addresses the medical necessity of services rendered prior to August 1989. Although the second letter indicates that the Employee was suffering from depression in August 1989, neither of the letters specifies the basis on which the physician determined that psychological services were medically required. Furthermore, as noted by the Employer, the condition for which the Employee was being treated from August 30, 1988 through November 13, 1989 is not clear from the information provided. Because the medical necessity of the psychological testing and psychotherapy rendered in this case has not been established as required under Article III. A. (7) (f) of the Employer Benefit Plan, the Employer is not required to provide benefits for those services.

#### Opinion of the Trustees

The Employer is not required to provide health benefits for the Employee's psychological evaluation and individual and group psychotherapy sessions rendered between August 30, 1988 and November 13, 1989.