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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-261 - My 16, 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 a wheelchair lift under the terms of the Employer Benefit Plan.

Background Facts

The Employee's eleven-year-old dependent daughter suffers from severe mental retardation due to neonatal encephalitis. Her care is complicated by a complex seizure disorder, spastic cerebral palsy and orthopedic deformities of the lower extremities. The Employee's daughter is confined to a wheelchair, and her physician states that the only way she can be transported for regular routine medical care is by van in her wheelchair. He further states that it has become almost impossible to get her into the van without a wheelchair lift.

The Employer has denied benefits for the purchase of a wheelchair lift.

Dispute

Is the Employer required to provide benefits for a wheelchair lift for the Employee's dependent daughter?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for a wheelchair lift because it is medically necessary.

Position of the Employer: The Employer is not required to provide benefits for a wheelchair lift because it is not appropriate for use in the home, it is not primarily and customarily used to serve a medical purpose, and it would generally be useful in the absence of an illness or injury.

Pertinent Provisions

Article III. A. (6)(d) of the Employer Benefit Plan states:

(d) Medical Equipment

Benefits are provided for rental or, where appropriate, purchase of medical equipment suitable for home use when determined to be medically necessary by a physician.

Q&A #81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trusts,  
Article III, Sections A (6) (d) and (e), and A (7) (a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

- A. Under the Home Health Services and Equipment provision, benefits are provided for the rental and, where appropriate as determined by the Plan Administrator, purchase of medical equipment and supplies (including items essential to the effective use of the equipment) suitable for home use when determined to be medically necessary by a physician. These supplies and equipment include, but are not limited to, the following:
1. Durable Medical Equipment (DME) which (a) can withstand use (i.e., could normally be rented), (b) is primarily and customarily used to service a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home. Examples of covered DME items are canes, commodes and other safety bathroom equipment, home dialysis equipment, hospital beds and mattresses, iron lungs, orthopedic frames and traction devices, oxygen tents, patient lifts, respirators, vaporizers, walkers and wheelchairs.

2. Medical supplies necessary to maintain homebound or bedridden Beneficiaries. Examples of covered supplies are enema supplies, disposable sheets and pads (also called "Chux" or "blue pads"), supplies for home management of open or draining wounds, heating pads (for therapeutic use only) and insulin needles and syringes.
  3. Oxygen, as specified in Article III, Section A (6) (e).
- ...
- C. Items of a convenience nature or those that do not require professional judgment, recommendations or instructions to purchase or use are not covered benefits. Examples of such items are: ordinary support (panty) hose, garter belts, disposable paper cups or towels, cotton balls, cotton swabs, bandaids, exercise equipment, and foot pads for bunions or calluses.

Covered items under A and B above are not subject to copayment.

#### Discussion

Under Article III. A. (6)(d) of the Employer Benefit Plan, benefits are provided for medical equipment suitable for home use when determined to be medically necessary by a physician. The type of medical equipment that is covered is further defined by Q&A 81-38, which states that covered equipment is that which (a) can withstand use, (b) is primarily and customarily used to serve a medical purpose, (c) generally is not useful to a person in the absence of an illness or injury, and (d) is appropriate for use in the home.

The Trustees have previously addressed the question of coverage for a van lift for a wheelchair-bound beneficiary in ROD 81-131 (copy enclosed herein). The opinion of the Trustees in that case was that a van lift is not appropriate for use in the home and it is not primarily and customarily used to serve a medical purpose. The Trustees concluded that a van lift is not considered medical equipment for which benefits are provided under Article III. A. (6) (d).

As in ROD 81-131, the lift in this case would be used for transportation purposes outside the home; it is not appropriate for use in the home and would not be used to serve a medical purpose. Therefore, the lift is not a covered benefit under Article III. A. (6)(d) of the Employer Benefit Plan.

#### Opinion of the Trustees

The Employer is not required to provide benefits for a wheelchair lift for the Employee's dependent daughter.