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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No. 88-301 - August 22, 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 emergency room care under the terms of the Employer Benefit Plan.

### Background Facts

On June 14, 1989, the Employee sought medical evaluation and treatment at a hospital emergency room. The Employee states that he had been very sick for 24 hours prior to the emergency room visit. The physician's report on the emergency room record indicates that the Employee had had symptoms that included a sore throat, fever with diarrhea, and some abdominal pain for two weeks prior to the visit. The Employee was diagnosed as having acute pharyngitis and tonsillitis and was prescribed an antibiotic. The Employer denied the charges related to the use of emergency room on the grounds that medical treatment was not sought within 48 hours of the onset of acute medical symptoms.

### Dispute

Is the Employer required to pay the emergency room charge resulting from the Employee's evaluation and treatment on June 14, 1989?

### Positions of the Parties

Position of the Complainant: The Employer is responsible for payment of the emergency room charge incurred by the Employee on June 14, 1989 because he had been very sick for 24 hours prior to the emergency room visit. He had not been sick for two weeks as stated on the emergency room record.

Position of the Respondent: The Employer is not responsible for payment of the emergency room charge because the treatment was not rendered within 48 hours following the onset of acute medical symptoms.

#### Pertinent Provisions

Article III A. (2) (a) of the Employer Benefit Plan provides:

(2) Outpatient Hospital Benefits

(a) Emergency Medical and Accident Cases

Benefits are provided for a Beneficiary who receives emergency medical treatment or medical treatment of an injury as the result of an accident, provided such emergency medical treatment is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of the accident.

#### Discussion

Article III. A. (2) (a) of the Employer Benefit Plan provides that emergency medical treatment is a covered benefit when it is rendered within 48 hours following the onset of acute medical symptoms.

The Employee in this case states that his emergency room visit occurred within 48 hours of the onset of his illness. However, the emergency room record indicates that the Employee's symptoms began two weeks prior to the emergency room visit. A Funds' medical consultant has reviewed the information presented in this case and is of the opinion that no aspect of the patient's condition was acute or warranted emergency room care. According to the consultant, pharyngitis is not an acute emergency in an adult, nor did the accompanying fever and mild intestinal symptoms warrant an emergency room visit. The consultant stated that even if the patient's symptoms had occurred within 48 hours of the visit, the patient's condition, as evidenced by the clinical presentation and diagnosis, was not acute and did not merit emergency medical treatment.

#### Opinion of the Trustees

The Employer is not required to pay the emergency room charge resulting from the Employee's evaluation and treatment on June 14, 1989.