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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-306 - November 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 health benefits coverage for screening and diagnostic procedures under the terms of the Employer Benefit Plan.

### Background Facts

On January 29, 1990, both the Employee and his spouse were seen by their physician for physical examinations which included several laboratory tests, a chest x-ray and electrocardiogram for each of them. The Employer paid the charges for the various tests performed on both the Employee and his spouse, but denied charges for the tuberculosis (TB) skin tests and stool evaluations for blood to detect colon cancer. The Employer states that these tests are routine in nature and, as such, are not covered under the Employer Benefit Plan.

The Employee has a positive family history of cancer, and both the Employee and his spouse have had ulcers, colon problems, and recurrent upper respiratory infections in the past. Benefits have been provided for such tests in the past.

### Dispute

Is the Employer required to provide benefits for the screening tests for TB and colon cancer performed on both the Employee and his spouse during their physical examinations on January 29, 1990?

### Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the screening tests performed on the Employee and his spouse on January 29, 1990.

Position of the Employer: The Employer is not required to provide benefits for the screening tests in question because the tests were routine in nature and, as such, are not covered under the Employer Benefit Plan. The Employer states that the tests may have been paid for in the past by mistake; however, it does not intend to seek reimbursement for those payments at this time.

#### Pertinent Provisions

Article III. A. (3)(o) 2. of the Employer Benefit Plan states:

(3) Physicians' Services and Other Primary Care

(o) Primary Medical Care - Miscellaneous

2. Benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

#### Discussion

Article III. A. (3)(o) 2. of the Employer Benefit Plan states that benefits are provided for immunizations, allergy desensitization injections, pap smears, screening for hypertension and diabetes, and examinations for cancer, blindness, deafness, and other screening and diagnostic procedures when medically necessary.

A Funds' medical consultant has reviewed this file and has advised that the tests in question, TB skin tests and stool evaluations for blood, were appropriate and medically necessary as part of the physical evaluations done on both the Employee and the Employee's spouse. The consultant has advised that the tests were medically indicated given the patients' ages, risk factors, and medical histories. Because the tests in question were medically necessary, they are covered under the terms of the Employer Benefit Plan.

#### Opinion of the Trustees

The Employer is required to provide benefits for the screening tests for TB and colon cancer performed on both the Employee and the Employee's spouse during their physical examinations on January 29, 1990.