

OPINION OF TRUSTEES

---

In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-351 - April 24, 1991

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 for an Employee under the terms of the Employer Benefit Plan.

Background facts

On the morning of March 16, 1990, the Employee left work early due to illness. That evening he sought medical evaluation and treatment at a hospital emergency room. According to the Employee, he went to the emergency room because it was not possible to see a doctor elsewhere at that hour. The emergency room record indicates that the Employee reported he had been ill for two days with symptoms that included a productive cough, runny nose, sweating and chest pain. The physician diagnosed the Employee as having probable bronchitis and frontal sinusitis. He prescribed an antibiotic for treatment of the bronchitis and a cough suppressant and antihistamine for symptomatic relief.

The Employer has denied the emergency room charge on the grounds that the Employee did not have acute medical symptoms and did not seek treatment within 48 hours.

Dispute

Is the Employer required to pay the emergency room charge resulting from the Employee's evaluation and treatment on March 16, 1990?

Positions of the Parties

Position of the Employee: The Employer Is required to pay the emergency room charge because the Employee was suffering from acute medical symptoms and the emergency room was the only facility available at that time for treatment.

Position of the Employer: The Employer Is not required to pay the emergency room charge because the Employee did not have acute medical symptoms. Although the Employee left work early on the day of the emergency room visit, he did not go directly to the hospital and he reported to work the next day. In addition, treatment was not sought within 48 hours of the onset of symptoms because the Employee reported he had been ill for 2 days prior to the emergency room visit.

#### Pertinent Provisions

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

(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 emergency room record indicates that the Employee had symptoms of a cough, runny nose, sweating and chest pain for two days prior to the emergency room visit. A Funds' medical consultant has reviewed the information presented in this case and has advised that the patient's symptoms, as evidenced by the clinical presentation, were not acute and did not warrant emergency medical evaluation. Because the Employee did not have acute medical symptoms that warranted emergency medical treatment, the Trustees conclude that the Employer is not required to pay the emergency room charge resulting from the Employee's evaluation and treatment on March 16, 1990.

#### Opinion of the Trustees

The Employer is not required to pay the emergency room charge resulting from the Employee's evaluation and treatment on March 16, 1990.