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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-371 - February 26, 1992

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 immunizations for an Employee's son under the terms of the Employer Benefit Plan.

Background Facts

On September 6, 1990, a physician administered TD (Tetanus and Diphtheria) and MMR (Measles, Mumps, Rubella) vaccines to the Employee's 12-year-old son, as required under the Kentucky School Immunization Law. The physician has stated that such immunizations are necessary to keep the Employee's son immunized against serious illness.

The Employer denied benefits for the Employee's son's immunizations, stating that there is no evidence of medical necessity and that the immunizations could have been provided free of charge at the local health department.

Dispute

Is the Employer required to provide benefits for the immunizations administered to the Employee's son?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the immunizations administered to the Employee's son because they were required by law and all required booster shots should be covered.

Position of the Employer: The Employer is not required to provide benefits for the immunizations administered to the Employee's son because their medical necessity has not been

established and because the Plan excludes coverage for immunizations that can be provided by the local health department.

#### 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.

Article III. A. (11) (a) 5. of the Employer Benefit Plan states:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

5. Immunizations provided by local health agencies.

#### Discussion

Article III. A. (3)(o) 2. of the Employer Benefit Plan provides benefits for many preventive health measures, including immunizations, pap smears, examinations for cancer, blindness and deafness, as well as other screening and diagnostic procedures when medically necessary. With respect to these procedures, medical necessity is not necessarily construed to imply imminent danger or the actual onset of disease or illness, such as the administration of rabies vaccine after a wild animal bite, but also refers to the application of prudent medical practice and preventive care, as in the case of screenings for hypertension and diabetes.

In this case, a physician administered Tetanus and Diphtheria and Measles, Mumps and Rubella vaccines to the Employee's son to keep his immunizations current. These immunizations followed guidelines established by the U.S. Department of Health and Human Services as well as the American Academy of Pediatrics, the two bodies professionally recognized as setting the standards for immunizations of children.

A Funds medical consultant has reviewed the file in this case, and advises that the immunizations were administered consistent with the standards of medical practice for routine prophylactic

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vaccinations. Inasmuch as the immunizations were administered consistent with professional guidelines for preventive health care and current standards of medical practice, the Employer is required to provide benefits for the medically necessary immunizations administered to the Employee's son.

Article III. A. (11) (a) 5. states that benefits are not provided for immunizations provided by local health agencies. This provision has historically been interpreted to mean that benefits are not paid where immunizations have actually been provided by a local health agency at no charge or at a reduced rate, as a way of avoiding unnecessary payment for this service. Thus, this provision is not applicable in this case.

Opinion of the Trustees

The Employer is required to provide benefits for the immunizations administered to the Employee's son.