

---

## OPINION OF TRUSTEES

---

### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-389 - July 25, 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 and his spouse under the terms of the Employer Benefit Plan.

### Background Facts

On June 23, 1990, the Employee's spouse sought medical evaluation and treatment at a hospital emergency room. The emergency room record indicates that the Employee's spouse reported symptoms of a cough and chest pains. The physician diagnosed the Employee's spouse as having pleurisy (inflammation of the lining of the lung). She prescribed an antibiotic for treatment of the inflammation and Nucofed (cough suppressant, decongestant, expectorant syrup) for symptomatic relief from coughing. She also instructed the Employee's spouse to increase her intake of liquids and to take Tylenol for pain or fever.

On June 30, 1990, the Employee and his spouse both sought evaluation and treatment from a hospital emergency room. The emergency room record indicates that the Employee had complaints of feeling ill with a dry cough for four days. His spouse reported symptoms of feeling ill and fatigued with a persistent cough for a week. The emergency room physician diagnosed the Employee and his spouse as having upper respiratory infections. She prescribed, for the Employee, Robitussin-DAC for relief from coughing and instructed him to use Tylenol in case of fever. She instructed the Employee's spouse to continue to take the antibiotic prescribed the previous week at the emergency room, but to discontinue use of the cough expectorant previously prescribed. In its place, she prescribed Tussi-Organidin (a cough suppressing, mucus loosening expectorant) for symptomatic relief of her cough.

On July 3, 1990, the Employee and his spouse again sought medical treatment at a hospital emergency room. The Employee's chief complaint was a dry hacking cough; his spouse's chief

complaint was a persistent cough and body aches. The physician diagnosed both the Employee and his spouse as having bronchitis and a viral infection syndrome. She prescribed an antibiotic for the Employee and instructed both the Employee and his spouse to continue to use the cough medications prescribed in their previous emergency room visits.

After this ROD was filed, the Employer determined that the Employee's spouse's emergency room visit on June 23, 1990 was a medical emergency and that benefits are therefore payable under the Employer Benefit Plan. However, the Employer has denied the charges related to the use of the emergency room on June 30, 1990 and July 3, 1990.

### Dispute

Is the Employer required to pay the emergency room charges resulting from the Employee's and his spouse's emergency room visits on June 30, 1990 and July 3, 1990.

### Positions of the Parties

Position of the Employee: The Employee asks whether the Employer is required to pay the emergency room charges incurred on June 30, 1990 and July 3, 1990.

Position of the Employer: The Employer is not required to pay the emergency room charges incurred on June 30, 1990 and July 3, 1990 because the visits did not constitute acute medical emergency situations and each of the visits occurred during hours when a physician could have been consulted in an office setting.

### 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 records of June 30, 1990 indicate that the Employee had complaints of feeling ill with a dry cough for four days and his spouse had symptoms of feeling ill with a persistent cough for a week prior to the emergency room visit. A Fund's medical consultant has reviewed the information presented for the visits on June 30, 1990 and has advised that the records do not indicate that either the Employee or his spouse had an acute illness that would warrant emergency medical treatment.

The emergency room records of July 3, 1990 indicate that the Employee and his spouse returned to the emergency room because of persistent coughs. The Employee's spouse also reported having body aches. The Funds' medical consultant has reviewed the information pertaining to the visits on July 3, 1990 and has advised that there is no indication in the records that either the Employee's or his spouse's symptoms had worsened or become acute.

Inasmuch as the emergency room visits in question were not prompted by acute medical symptoms that warranted emergency medical treatment, the Trustees conclude that the Employer is not required to pay the emergency room charges for the visits on June 30, 1990 and July 3, 1990.

#### Opinion of the Trustees

The Employer is not required to pay the emergency room charges resulting from the Employee's and his spouse's emergency room visits on June 30, 1990 and July 3, 1990.