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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-404 - June 19, 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 the treatment of obesity under the terms of the Employer Benefit Plan.

### Background Facts

The Employee is 5' 10" tall and weighed 250 pounds on February 14, 1991, when he sought treatment at a weight loss clinic. The clinic's physician stated that the Employee's weight far exceeds the average weight (180 lbs.) for a man of his stature and that some of his health problems, including pain in the left knee, hypertension (controlled) and gallstones, are due to his overweight condition. The physician recommended that the Employee participate in a weight loss program which involves the use of a liquid nutrient (Medifast) diet. The physician stated that the diet supplement system is an adjunct to medicines for weight loss, and the Employee's weight loss plan will improve his health.

The Employer has denied benefits for the liquid nutrient diet system and related charges because prior approval was not requested and the Employee does not meet the criteria for severe obesity, as stated in Article III. A. (11) (a) 25. of the Employer Benefit Plan.

### Dispute

Is the Employer required to provide benefits for the Employee's diet program?

### Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's diet program because it was recommended by his physician as treatment for his medical problems.

Position of the Employer: The Employer is not required to provide benefits for the Employee's diet program because prior approval was not requested and the Employee does not have a pathological, morbid form of severe obesity, as required for coverage under the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (11) (a) 25. of the Employer Benefit Plan provides:

(11) General Exclusions

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

25. Charges for treatment of obesity, except for pathological, morbid forms of severe obesity (200% or more of desirable weight) when prior approval is obtained from the Plan Administrator.

Discussion

Article III. A. (11) (a) 25. of the Employer Benefit Plan excludes coverage for the treatment of obesity unless the Beneficiary has a pathological, morbid form of severe obesity, which is defined as 200% or more of desirable weight, and prior approval is obtained from the Plan Administrator.

There is no indication from the information provided nor does the Employee allege that prior approval was requested for the Employee's diet program. Even if prior approval had been requested, the charges for the treatment of obesity in this instance are not covered under the terms of the Employer Benefit Plan. According to the 1983 Metropolitan Insurance Company's Height and Weight Tables, the desirable weight for a male who is 5' 10" tall ranges from 144 pounds to 180 pounds, depending on his frame size. Based on the above-cited tables, the Employee's weight would have to be 288 pounds at a minimum to meet the Employer Benefit Plan's definition of a pathological, morbid form of severe obesity. Thus, the Employee's weight of 250 pounds does not meet the Plan's definition of severe obesity. Accordingly, charges for treatment of obesity in this case are not covered under the Employer Benefit Plan.

Opinion of the Trustees

The Employer is not required to provide benefits for the Employee's diet program.