

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-427 - December 16, 1991

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul A. 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 under the terms of the Employer Benefit Plan.

Background Facts

The Employee's spouse has a history of chronic neck and back pain. Her physician has stated that she has had episodic exacerbations of acute pain that have required emergency intervention. On January 6, 1991 the Employee's spouse was treated at a hospital emergency room for pain in the left arm and neck. The Employer denied benefits for the emergency room charges on the grounds that the onset of symptoms was on January 3, 1991, more than 48 hours before the spouse sought emergency medical care.

Dispute

Is the Employer required to pay the emergency room charges resulting from the Employee's spouse's evaluation and treatment on January 6, 1991?

Positions of the Parties

Position of the Employee: The Employer is required to pay the emergency room charges incurred on January 6, 1991, because the Employer paid the charges for previous emergency room visits when the Employee's spouse was treated for the same condition.

Position of the Employer: The Employer is not required to pay the emergency room charges incurred on January 6, 1991, because the hospital bill indicates that the onset of the Employee's spouse's symptoms was more than 48 hours 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

Under Article III. A. (2) (a) of the Employer Benefit Plan, benefits are provided for emergency medical treatment when it is rendered within 48 hours following the onset of acute medical symptoms. As noted in ROD 84-380 (copy enclosed herein), emergency room services are covered for the treatment of acute symptoms requiring emergency treatment, even though the underlying medical condition is chronic.

A Funds' medical consultant has reviewed this case and notes that the patient has chronic neck and back pain with exacerbations of acute pain that, according to her physician, require emergency intervention. The consultant has advised that the pain's onset on January 3, 1991 is not the limiting factor in this case because such pain can worsen acutely to become intolerable, requiring the emergency intervention. The consultant further notes that the patient had been unable to sleep for the past one or two nights and the pain had not responded to strong oral pain medication, indicating that the pain had progressively worsened within 48 hours of the visit. The consultant concludes that the worsening pain within 48 hours warranted the emergency room visit. Because the Employee's spouse had developed acute medical symptoms that required emergency medical treatment within 48 hours of the emergency room visit, the Trustees conclude that the Employer is required to pay, the emergency room charges.

#### Opinion of the Trustees

The Employer is required to pay the emergency room charges resulting from the Employee's spouse's evaluation and treatment on January 6, 1991.