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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-485 - May 7, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Elliot A. Segal, 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 inpatient hospital room and board charges under the terms of the Employer Benefit Plan.

### Background Facts

The Employee's spouse was hospitalized from December 29, 1990 to January 4, 1991 for stabilization and treatment of abdominal pain with associated nausea and diarrhea. The Employer denied benefits for the room and board charges between January 1 and January 4, 1991, stating that these days were not medically necessary. On February 20, 1991 and July 31, 1991 the Employee requested reconsideration of the denial. The Employee's spouse's physician submitted a letter dated July 31, 1991 to the Employer's insurance carrier stating that the hospitalization was necessary for the evaluation and stabilization of the patient's progressive symptomatology that had not responded to two months of outpatient management. The Employer's insurance carrier, in a letter to the Employee dated September 9, 1991, stated that after further review the denial was maintained as it was determined that the services rendered could have been done on an outpatient basis. The Employee is now facing legal action for the collection of the remaining charges due to his spouse's hospitalization.

The Employer provided benefits for the Employee's spouse's hospitalization from December 29, 1990 to December 31, 1990. The Employer has denied benefits for the room and board charges from January 1 to January 4, 1991 on the grounds that the medical necessity of the charges has not been established.

### Dispute

Is the Employer required to provide benefits for the room and board charges incurred by the Employee's spouse during her hospitalization of January 1, 1991 to January 4, 1991?

### Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the room and board charges incurred by the Employee's spouse during her hospitalization from January 1 to January 4, 1991 because the days in question were medically necessary and are a covered benefit under the terms of the Employer's Medical Benefit Plan.

Position of the Employer: The Employer is not required to provide benefits for the room and board charges incurred during the Employee's spouse hospitalization of January 1 to January 4, 1991 because the medical necessity of the charges has not been established. The services provided on the days in question could have safely and adequately been performed in an outpatient setting.

### Pertinent Provisions

The Introduction to Article III of the Employer Benefit states:

#### Article III--Benefits

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of questionable current usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

Article III. A. (1) (a) of the Employer Benefit Plan states:

#### A. Health Benefits

##### (1) Inpatient Hospital Benefits

##### (a) Semi-private room

When a Beneficiary is admitted by a licensed physician (hereinafter "physician") for treatment as an inpatient to an Accredited Hospital (hereinafter "hospital"), benefits will be provided for semi-private room accommodations (including special diets and general nursing care) and all medically necessary services provided by the hospital as set out below for the diagnosis and treatment of the Beneficiary's condition.

Medically necessary services provided in a hospital include the following:

Operating, recovery, and other treatment rooms  
Laboratory tests and x-rays  
Diagnostic or therapy items and services  
Drugs and medication (including take-home drugs which are limited to a 30-day supply)  
Radiation therapy  
Chemotherapy  
Physical therapy  
Anesthesia services  
Oxygen and its administration  
Intravenous injections and solutions  
Administration of blood and blood plasma  
Blood, if it cannot be replaced by or on behalf of the Beneficiary

Article III. A. (10)(g) 3. of the Employer Benefit Plan states:

(g) Explanation of Benefits (EOB). Cost Containment and Hold Harmless

3. The Employer and the UMWA agree that excessive charges and escalating health costs are a joint problem requiring a mutual effort for solution. In any case in which a provider attempts to collect excessive charges or charges for services not medically necessary, as defined in the Plan, from a Beneficiary, the Plan Administrator or his agent shall, with the written consent of the Beneficiary, attempt to resolve the matter, either by negotiating a resolution or defending any legal action commenced by the provider. Whether the Plan Administrator or his agent negotiates a resolution of a matter or defends a legal action on a Beneficiary's behalf, the Beneficiary shall not be responsible for any legal fees', settlements, judgments or other expenses in connection with the case, but may be liable for any services of the provider which are not provided under the Plan. The Plan Administrator or his agent shall have sole control over the conduct of the defense, including the determination of whether the claim should be settled or an adverse determination should be appealed.

Article III. A. (11) (a) 16. of the 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:

16. Inpatient confinements solely for diagnostic evaluations which can be provided on an outpatient basis.

#### Discussion

The Introduction to Article III of the Employer Benefit Plan states that covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care. The Introduction further states that the fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan. Article III. A. (1) (a) of the Plan states that when a Beneficiary is admitted to a hospital by a physician for treatment as an inpatient, benefits will be provided for semi-private room accommodations and all medically necessary services provided for the diagnosis and treatment of the Beneficiary's condition.

A Funds' medical consultant has reviewed this file and has advised that the medical documentation indicates that the patient had stabilized as of December 31, 1990 and could have been safely discharged at that time. It is the consultant's opinion that the inpatient care beyond December 31, 1990 was not medically necessary, as any acute causes for the Employee's spouse's chest pain had been ruled out. Moreover, Article III. A. (11) (a) 16. of the Employer Benefit Plan states that benefits are not provided for inpatient confinements deemed to be solely for diagnostic evaluations which could be provided on an outpatient basis. The Funds' medical consultant has determined that the diagnostic tests that were performed during the last 72 hours of hospitalization could have safely been performed on a outpatient basis as the patient's condition had been stabilized. Accordingly, the Trustees conclude that the Employer's denial of the Employee's spouse's room and board charges for the period January 1 to January 4, 1991 is reasonable under the terms of the Employer Benefit Plan.

Article III. A. (10)(g) 3. of the Employer Benefit Plan provides that the Plan Administrator shall attempt to negotiate with or defend a Beneficiary against providers who seek to collect excessive charges, or attempt to collect for services not medically necessary. Whether the Employer negotiates a resolution or defends a legal action, the Beneficiary is not responsible for any expenses in connection with such charges. This is known as the Plan's "hold harmless" provision. In this case, the Employer has denied charges as not medically necessary, and the Employee is facing legal action for collection of the remaining balance. The Employer, with the consent of the Employee, should initiate hold harmless procedures.

#### Opinion of the Trustees

The Employer is not required to provide benefits for the room and board charges in question because the Employee's spouse hospitalization of January 1, to January 4, 1991 was not

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medically necessary. The Employer, with the consent of the Employee, is required to hold the Employee harmless against any collection attempts made by the hospital.