

---

OPINION OF TRUSTEES

---

In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-508 - June 3, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr.

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

On April 9, 1991, the Employee sought medical evaluation and treatment for his son at a hospital emergency room. The emergency room record indicates that the Employee's son reported symptoms of abdominal cramping and diarrhea for three days prior to the emergency room visit. The emergency room physician diagnosed the Employee's son as having acute gastroenteritis (inflammation of the stomach and intestines). The Employee states that the attending physician told him to bring his son back to the emergency room if the son's symptoms worsened. A day later, on April 10, 1991, the Employee took his son to a physician's office near his home because his son's symptoms had worsened to include vomiting. The examining physician's notes indicate that the Employee's son had complaints of acute abdominal pain and that the physician recommended a surgical evaluation to rule out appendicitis. The Employee states that the physician's office arranged with a doctor at the emergency room to conduct the surgical evaluation the same day. Upon examination at the emergency room, the Employee's son was diagnosed with gastroenteritis and medication was prescribed for home use.

The Employer has provided benefits for the charges incurred for physician services rendered in the three visits on April 9 and 10, 1991, but has denied charges for the use of the emergency room in both cases. The Employer has stated that the emergency room visit of April 9 was neither prompted by nor rendered within 48 hours of the onset of acute symptoms and that the emergency room visit of April 10 was for a surgical evaluation only.

The Employee contends that the Employer should either make payment for the emergency room charges or hold him harmless from efforts the providers of service may take to collect the outstanding balances.

### Dispute

Is the Employer required to pay the two emergency room charges resulting from the Employee's son's evaluation and treatment on April 9 and 10, 1991?

### Positions of the Parties

Position of the Employee: The Employer is required to pay the two emergency room charges resulting from the Employee's son's evaluation and treatment on April 9 and 10, 1991 because the care was medically necessary to treat acute medical emergencies. However, if the Employer continues to deny payment for these charges then hold harmless procedures should be implemented.

Position of the Employer: The Employer is not required to pay the emergency room charges resulting from the Employee's son's evaluation and treatment on April 9 and 10, 1991 because the visits do not constitute acute medical emergency situations. The visit of April 9, 1991 was not rendered within the 48 hours of the onset of acute symptoms, and the visit of April 10, 1991 was for a surgical evaluation.

### Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan provides in pertinent part:

#### 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....

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.

Article III. A. (10)(g) 3. 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.

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.

A Funds' medical consultant has reviewed the information presented for the emergency room visit on April 9, 1991 and has advised that the Employee's son's abdominal pain and diarrhea for three days changed in nature and became worse at least 48 hours immediately preceding this visit. According to the consultant, the visit on April 9, 1991 was medically warranted.

The emergency room record of April 10, 1991 indicates that the Employee's son went to the emergency room because of persistent abdominal cramping and diarrhea. The Employee has stated that, prior to going to the emergency room on that day, his son was seen by a physician in an office setting who referred him to the emergency room to obtain a surgical evaluation to rule out appendicitis. The Funds' medical consultant has reviewed the information presented from the visit on April 10, 1991 and has advised that the visit was preceded by new symptoms of vomiting, and the physical findings of abdominal pain. Moreover, the consultant has stated that, given the history and physical findings, it would be reasonable to obtain a surgical consultation. Although the emergency room would not be necessary for such a consultation, the referring physician instructed the Employee and his son to see a physician at the emergency room.

The consultant has determined that while the visit itself was medically warranted, the use of the emergency room setting would not be medically necessary.

Inasmuch as the emergency room visit on April 9, 1991 was medically necessary, the Employer is required to provide benefits. However, since the emergency room setting was not required for the surgical consultation on April 10, 1991, the Employer is not required to provide benefits for the use of the emergency room. Since the use of the emergency room setting was not medically necessary, the Employer is required to hold the Employee harmless from efforts to collect the emergency room charges incurred on April 10, 1991.

Opinion of the Trustees

The Employer is required to provide benefits for the emergency room charges incurred by the Employee's son's on April 9, 1991. The Employer is not required to provide benefits for the use of the emergency room on April 10, 1991, but is required to implement hold harmless procedures to protect the Employee from any collection attempts made in connection with the emergency room charges for that date.