

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-598 - September 21, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, 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 emergency medical care benefits under the terms of the Employer Benefit Plan.

Background Facts

On Saturday, April 27, 1991, the Employee sought treatment at a local hospital emergency room, complaining of pain in his ring, middle, and index fingers. The emergency room record indicates that the Employee stated that the pain had begun approximately one week before, and denied any injury. The physician's dictated notes indicated that the patient was in no acute distress, rather suffering from some tenderness with "very minimal, at best, swelling." The physician diagnosed the problem as early paronychia (inflammation around a fingernail), and prescribed an antibiotic, warm soaks and follow-up in two to three days. The physician notes that he discussed the possibility of an incision and drainage (I&D) with the patient.

The Employer denied the charge for the emergency room and the emergency room physician on the basis that emergency care was not medically necessary and care was not rendered within 48 hours of the onset of the condition.

Dispute

Is the Employer required to provide benefits for expenses incurred by the Employee in connection with his use of the emergency room on April 27, 1991?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the Employee's use of the emergency room on April 27, 1991 because the symptoms had worsened and became more acute within the 48 hours immediately preceding the visit.

Position of the Employer: The Employer is not required to provide benefits for the emergency room charge incurred by the Employee on April 17, 1991 because emergency care was not necessary or rendered within 48 hours of the onset of acute medical symptoms.

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.

Article III. A. (3)(h) and (i) state:

(h) Home, Clinic, and Office Visits

Benefits are provided for services rendered to a Beneficiary at home, in a clinic (including the outpatient department of a hospital) or in the physician's office for the treatment of illnesses or injuries, if provided by a physician.

(i) Emergency Treatment

When provided by a physician, benefits are provided for a Beneficiary who receives outpatient emergency medical treatment or 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 benefits for emergency medical treatment when the care is rendered within 48 hours following the onset of acute medical symptoms or the occurrence of an accident. And Article III. A. (3)(h) and (i) provide benefits for physician's services to treat illnesses or injuries.

A Funds' medical consultant has reviewed the file of the Employee's emergency treatment on April 27, 1991, to include the handwritten and typed dictated chart from the emergency department of the hospital. The medical record states that the patient had pain of one week duration and that, at the time of the visit, the patient was in no acute distress. The medical record goes on to state that there was some tenderness noted at the nail fold and close to the cuticle on the lateral, index and middle fingers and that there was "very minimal, at best, swelling." Based on the consultant's review of the emergency room record, as well as the aforementioned facts, he is of the opinion that the use of the emergency room on April 27, 1991 would not be warranted under the circumstances.

The Employer denied both the emergency room charges and the emergency room professional fees. Because there is no evidence of acute medical symptoms, the Employer is not required to pay the emergency room charge.

The charge for the physician would, however, be eligible under the provisions of Article III. A. (3)(h).

#### Opinion of the Trustees

The Employer is required to provide benefits for the emergency room physician's charge of \$39.00 incurred by the Employee on April 27, 1991. The Employer is not required to provide benefits for the emergency room facility charge of \$15.50 also incurred on April 27, 1991.