

OPINION OF TRUSTEES

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In Re

Complainants: Employee  
Respondent: Employer  
ROD Case No: 88-641 - December 4, 1992

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

Background Facts

On December 28, 1991, the Employee took his daughter to the emergency room of the local hospital for evaluation and treatment of left lower quadrant pain and nausea and vomiting. The hospital record indicates that the symptoms had been present five to seven days. The physical examination was negative for abdominal pain, guarding or tenderness. There is no evidence in the hospital records that the symptoms worsened or became acute in the 48 hours prior to the emergency room visit.

The final diagnosis was "nausea, vomiting, early pregnancy (?)." The Employee's daughter was discharged with instructions to have a pelvic sonogram on Monday and to follow-up with her personal physician.

The Employer paid the physician's charge but denied the charges for laboratory tests and for the use of the emergency room, stating that the services were not rendered within 48 hours of

the onset of acute medical symptoms, and that the services could have been rendered with equal efficacy at a lower level of care.

### Dispute

Is the Employer required to provide benefits for laboratory and emergency room charges resulting from the Employee's daughter's evaluation and treatment on December 28, 1991?

### Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the laboratory and emergency room charges resulting from the Employee's daughter's evaluation and treatment on December 28, 1991, because the daughter's symptoms were acute and emergency medical treatment was necessary.

Position of the Employer: The Employer is not required to provide benefits for the Employee's daughter's use of the laboratory and emergency room on December 28, 1991 because the medical symptoms were not acute, and care was not rendered within 48 hours of the onset of symptoms. Additionally, the services could have been rendered at a lower level of care with equal efficacy.

### 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 any 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 that emergency medical treatment is a covered benefit when it is rendered within 48 hours following the onset of acute medical symptoms.

The emergency room record indicates that the Employee's daughter's symptoms began five to seven days prior to the emergency room visit. A Funds' medical consultant has reviewed the records of the emergency room visit on December 28, 1991 and has advised that there is no indication that the Employee's daughter's symptoms had worsened or become acute within the 48 hours immediately preceding the visit. The consultant advised that, in his opinion, the patient was physically able to visit her primary care physician or clinic and that the patient's condition did not warrant an emergency room visit. Therefore, the Employer is not required to provide benefits for the emergency room charge resulting from the Employee's daughter's evaluation and treatment on December 28, 1991, but is required to provide benefits for the laboratory charges on that visit.

Opinion of the Trustees

The Employer is not required to provide benefits for the emergency room charge incurred by the Employee's daughter's on December 28, 1991, but is required to provide benefits for laboratory charges incurred on that visit.