

---

## OPINION OF TRUSTEES

---

### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-726 - December 10, 1993

Board of Trustees: Michael H. Holland, Chairman; Thomas F. Connors, Trustee;  
Marty D. Hudson, Trustee; Robert T. Wallace, Trustee.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage under the terms of the Employer Benefit Plan.

### Background Facts

The Complainant was employed in a classified position by the Respondent when she sustained a back injury on October 2, 1990. The Complainant received treatment for her injury from an authorized workers' compensation physician. The Complainant also sought medical advice regarding her injury from her personal physician, who is not an authorized workers' compensation physician.

The Complainant states that workers' compensation has denied payment of her medical bills for services that were provided by physician(s) who were not authorized by workers' compensation. The Complainant submitted these bills to the Respondent for payment under the Employer Benefit Plan. The Complainant states that the Respondent is required to provide coverage for the Complainant's medical expenses denied by workers' compensation because there is no third party responsible for payment of the bills.

The Respondent states that in the State of Virginia, workers' compensation claimants are required to select from a panel of employer authorized physicians for treatment. The Respondent contends that the Complainant "attempted to circumvent the workers' compensation procedures established by the State of Virginia" when she sought advice from physicians who were not authorized by workers' compensation. The Respondent claims that the Complainant's medical bills were properly denied under the Employer Benefit Plan because the charges are for medical services covered by workers' compensation law.

### Dispute

Is the Respondent required to provide coverage under the Employer Benefit Plan for the medical expenses incurred by the Complainant as a result of her compensable injury on October 2, 1990?

### Positions of the Parties

Position of the Complainant: The Respondent is required to provide coverage under the Employer Benefit Plan for the Complainant's medical bills that were denied by workers' compensation because there is no third party liable for coverage.

Position of the Respondent: The Respondent is not required to provide coverage for the medical bills denied by workers' compensation because the charges are for medical services covered by workers' compensation law.

### Pertinent Provisions

Article I (1), (2) and (4) of the Employer Benefit Plan provide:

#### Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (Employer's Name).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1988, as amended from time to time and any successor agreement.
- (4) "Employee" shall mean a person working in a classified job for the Employer, eligible to receive benefits hereunder.

Article III A. (11) (a) 1. of the Employer Benefit Plan provides:

#### (11) General Exclusions

- (a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:
  1. Cases covered by workers' compensation laws or employer's liability acts or services for which an employer is required by law to furnish in whole or in part.

### Discussion

Opinion of Trustees

ROD Case No. 88-726

Page 3

Article III A. (11) (a) 1. of the Employer Benefit Plan excludes benefits for cases covered by state workers' compensation laws.

The Trustees have previously concluded in RODs 81-686, and 88-055 (copies enclosed herein), that when coverage is denied by workers' compensation because an Employee failed to comply with certain administrative procedures, the Employer may rely on the workers' compensation exclusion in denying benefits under the Employer Benefit Plan. The Complainant sought treatment from physician(s) who were not authorized under workers' compensation law to provide treatment for a compensable injury. Inasmuch as the Complainant's medical expenses are attributable to her compensable injury, this is a case covered by workers' compensation laws and, therefore, excluded from coverage under the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is not required to provide coverage under the Employer Benefit Plan for the medical expenses incurred by the Complainant as a result of her compensable injury on October 2, 1990.