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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 93-028 - November 20, 1996

Trustees: Thomas F. Connors, Michael H. Holland, Donald E. Pierce, Jr.  
and Elliot A. Segal.

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

### Background Facts

The Employee's spouse awakened during the early morning hours on Tuesday, May 10, 1994, with discomfort in her throat and pain on swallowing and talking. Later, at 8:45 a.m. she sought treatment at a hospital emergency room. The physician there ordered a strep throat screen and gave her prescriptions for antibiotics. The emergency room report noted the spouse has a history of recurring throat infections.

The Employer denied benefits, saying that the services were not related to a medical emergency.

The Employee has not claimed that the visit was for an emergency, but states that he and other employees were told at an orientation in February 1994, that if their doctor was not in the Plan, and they could not persuade the doctor to join the Plan or could not secure another Plan-affiliated physician, they should go to the hospital when they got sick.

The Employer states that the employees were not instructed to seek care at a hospital when their doctor was not "in the Plan." The Employer indicates that the orientations were to inform employees about a Preferred Provider List (PPL) that would be effective September 1, 1994, as well as the health care bonus and deductible, and payment of emergency room charges. The PPL was not in effect during May 1994 when the emergency room visit took place.

### Dispute

Is the Employer required to provide benefits for the Employee's spouse's emergency room visit on May 10, 1994?

### Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the use of the emergency room on that date because the family's physician was not in the PPL.

Position of the Employer: The Employer is not required to provide benefits for the use of the emergency room because the PPL was not in effect and the Employee's spouse's condition was not a medical emergency.

#### Pertinent Provisions

Article III A. (2) (a) states:

(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) states:

(a) Home, Clinic and Office Visits

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

#### Discussion

Article III A. (2) (a) provides benefits for the use of the emergency room when such treatment is rendered within 48 hours of the onset of acute medical symptoms or the occurrence of an accidental injury. Article III A. (3) (h) provided benefits for physician services provided in a clinic or physician's office.

The Employer has denied benefits, stating the hospital visit was not for an emergency. The Employer's response further notes that the briefing for employees in February, 1994, concerned items that were both current and future at the time, including the health bonus and deductible, the Preferred Provider List (PPL) to be implemented in the fall, and payment of emergency room charges.

The Employee does not claim that an emergency existed, but rather that his spouse was following instructions issued at the briefing: That if a Beneficiary's physician is not on the Plan (PPL), he should try to secure one who is on the Plan, if not, go to the hospital emergency room. The Employee states the family had no family physician at the time.

Opinion of Trustees

ROD Case No. 93-028

Page 3

While both accounts differ, the Employee did not follow instructions as he understood them. Since the family had no physician, the spouse should have sought help at any physician's office, since this was not an emergency and her visit was during normal office hours.

A Funds' medical consultant has reviewed the medical records in this case and has concluded that no medical emergency existed and that the care could have been provided at a lesser level. Accordingly, consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the Employee's spouse's emergency room visit on May 10, 1994.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan, the Employer is not required to provide benefits for the Employee's spouse's emergency room visit on May 10, 1994.