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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 98-017- November 13, 2002

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson and  
Elliot A. Segal.

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

Background Facts

The Complainant is employed by the Respondent and is eligible for health benefits coverage under the Respondent's Employer Benefit Plan. The Complainant's spouse is also employed and has health benefits coverage from her employer which requires that she pay a co-payment for covered services. The Complainant's spouse's employer's plan is the primary plan for the spouse by reason of her employment.

The Complainant's spouse also has secondary coverage under the Respondent's Employer Benefit Plan. Consequently, after the Complainant's spouse's employer's plan has reviewed the spouse's medical claim, the spouse then submits the claim for review under the Respondent's Employer Benefit Plan. Upon reviewing the spouse's medical claim, the Respondent requires that the Complainant's spouse pay a co-payment. The spouse states that she should not have to pay the co-payment under the Respondent's plan because she has already paid a co-payment under her Employer's plan.

Another issue raised by the Complainant concerning the timely payment of claims has been resolved. The Complainant also questioned coverage for dental benefits under Article XX-A. The Trustees do not have jurisdiction over Article XX-A; therefore, the issues raised concerning coverage under Article XX-A will not be addressed.

Dispute

When the Employee's spouse submits a medical claim for review under the Respondent's Employer Benefit Plan, is she required to pay a co-payment?

Positions of the Parties

Position of the Complainant: The Employee's spouse is not required to pay a co-payment under the Respondent's Employer Benefit Plan because the Complainant's spouse should not be required to pay two co-payments for one medical bill.

Position of the Respondent: The Employee's spouse is required to pay a co-payment under the Respondent's Employer Benefit Plan because the Employer Benefit Plan requires that a beneficiary pay a co-payment for applicable services whenever the Plan is utilized.

Pertinent Provisions

Article I (1), (2), (4) and (7) 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 1998, 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.
- (7) "Dependent" shall mean any person described in Section D of Article II hereof.

Article II D. (1) of the Employer Benefit Plan provides:

Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

D. Eligible Dependents

Health benefits under Article III shall be provided to the following members of the family of any Employee, Pensioner, or disabled Employee receiving health benefits pursuant to paragraphs A, B, or of this Article II:

(1) A spouse who is living with or being supported by an eligible Employee or Pensioner;

Article III A. (8) of the Employer Benefit Plan states in pertinent part:

(8) Co-Payments and Deductibles

Effective January 1, 1997, the benefits provided in this Plan shall be subject to the co-payments and deductibles set forth below and such co-payments and deductibles shall be the responsibility of the Beneficiary. The Plan Administrator shall implement such procedures as deemed appropriate to achieve the intent of these co-payments and deductibles. Beneficiaries and providers shall provide such information as the Plan Administrator may require to effectively administer these co-payments and deductibles, or such Beneficiaries or providers shall not be eligible for benefits or payments under this Plan. Any overpayments made to a provider who overcharges the Plan in lieu of collecting the applicable co-payment and/or deductible from a participant or Beneficiary shall be repaid to the Plan Administrator by such provider.

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Article III. A. (10) (f) of the Employer Benefit Plan states in pertinent part:

(10) General Provisions

(f) Non-Duplication

The health benefits provided under this Plan are subject to a non-duplication provision as follows:

1. Benefits will be reduced by benefits provided under any other group plan, including a plan of another Employer signatory to the Wage Agreement, if the other plan:
  - (i) does not include a coordination of benefits or non-duplication provision, or
  - (ii) includes a coordination of benefits or non-duplication provision and is the primary plan as compared to this Plan.

\* \* \*

2. In determining whether this Plan or another group plan is primary, the following criteria will be applied

- (i) The Plan covering the patient other than as a spouse or dependent will be the primary plan.

\* \* \*

#### Discussion

Article II D. (1) of the Employer Benefit Plan states that health benefits coverage under Article III shall be provided to an Employee's spouse who is living with or being supported by an eligible Employee. Article III A. (10)(f) of the Plan provides for non-duplication of benefits by an Employer Benefit Plan and another group plan in situations where a beneficiary is covered by both plans. This non-duplication provision precludes duplicate payments for services and limits payments to the total allowable charges for covered services. Article III A. (10) (f) also states the criteria to be applied in determining whether the Employer Benefit Plan or another group plan is primary. One of the criteria stipulates that the plan covering the patient other than as a dependent will be the primary plan. Consequently, the Complainant's spouse's employer's plan is her primary plan because the spouse's employer's plan provides coverage for the spouse other than as a dependent. The non-duplication provision, however, does not exempt a beneficiary who has primary coverage under another employer's plan from paying a co-payment as addressed under Article III A. (8) of the Employer Benefit Plan.

Article III A. (8) of the Employer Benefit Plan states that "benefits provided in this Plan shall be subject to the co-payments and deductibles set forth below and such co-payment and deductibles shall be the responsibility of the Beneficiary." Thus, the Employee's spouse is subject to the co-payment provisions under Article III A. (8) of the Employer Benefit Plan when she submits a medical bill for review under the Respondent's Employer Benefit Plan.

#### Opinion of the Trustees

The Employee's spouse is subject to the co-payment provisions under Article III A. (8) of the Employer Benefit Plan.