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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: CA-003 – 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 Coal Industry Retiree Benefit Act of 1992 (Coal Act) Employer Benefit Plan maintained pursuant to section 9711 of the Internal Revenue Code.

Background Facts

On July 10, 1993, the Pensioner received a hearing aid from a non-participating vendor.

The Employer denied the charges in the amount of \$750, stating that the Pensioner's coverage only provides benefits for this service when it is performed by a "network provider/supplier as defined by the UMWA." The Employer was citing Article III. A. (7) (d) of the 1988 Employer Benefit Plan. The Pensioner qualifies as a Coal Act retiree. The terms of applicable provisions of the Coal Act Employer Benefit Plan are identical to the 1988 Employer Benefit Plan, under which this case was first brought.

Dispute

Is the Employer required to provide benefits for purchase of the hearing aid purchase by the Pensioner on June 14, 1993?

Positions of the Parties

Position of the Complainant: The Employer is required to provide benefits for the Pensioner's purchase of the hearing aid purchase because it was reasonable and necessary for the treatment of an illness and given at the appropriate level of care.

Position of the Respondent: The Employer is not required to provide benefits for the Pensioner's hearing aid purchase since it was not obtained from a participating provider.

Pertinent Provisions

Article III. A. (7) (d) of the Coal Act Employer Benefit Plan states in pertinent part:

(d) Hearing Aids

Benefits are provided for hearing aids recommended by a licensed otologist or otolaryngologist and a certified clinical audiologist. Such hearing aids must be purchased from a participating vendor. . . .

Discussion

Article III A. (7) (d) of the Coal Act Employer Benefit Plan provides benefits for hearing aids within specific limitations, one of which is that the hearing aid(s) must be purchased from a participating vendor. The vendor in this case was not a participating vendor.

Funds' staff has determined that at the time of the Pensioner's purchase of the hearing aid the vendor was not a participating provider under the Funds' plan, whose participating provider list is also used by the Employer. The Trustees conclude that, consistent with the provision of the Coal Act Employer Benefit Plan, the Employer is not required to provide benefits for the hearing aid purchased by the Pensioner on July 10, 1993.

Opinion of the Trustees

Consistent with the provisions of the Coal Act Employer Benefit Plan, the Employer is not required to provide benefits for the hearing aid purchased by the Pensioner on July 10, 1993, from a non-participating vendor.