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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-708 - March 13, 1990

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 benefits for emergency room care under the terms of the Employer Benefit Plan.

### Background Facts

On February 24, 1986, the Employee's spouse sought medical evaluation and treatment at a hospital emergency room. According to the emergency room record, the Employee's spouse complained of a fever with chills, sweating, weakness, dizziness, headache, nausea and a decrease in appetite. The record indicates that these symptoms began two weeks before her emergency room visit. The emergency room physician diagnosed the Employee's spouse's condition as an upper respiratory tract infection, prescribed an antibiotic and instructed her to take a decongestant cough medicine as well.

On March 13, 1987, the Employee's fifteen-year-old dependent daughter was taken to a hospital emergency room for evaluation and treatment. According to the emergency room record, the Employee's daughter complained of a sore throat, slight fever and swollen lymph nodes that had begun three days prior to the visit. The emergency room physician ordered blood work, diagnosed her condition as acute pharyngitis and prescribed an antibiotic.

On December 15, 1987, at 2:00 a.m., the Employee sought medical evaluation and treatment at a hospital emergency room. According to the emergency room record, the Employee complained of mid-back and abdominal pain, nausea and vomiting that had begun the evening of December 14, 1987. The emergency room physician diagnosed the patient as having a kidney stone, gave him an injection for pain and advised him to force fluids, continue home medications and see his family physician the following morning.

The Employer denied the charge related to the use of the emergency room for all three visits.

### Dispute

Is the Employer required to pay the emergency room charges resulting from the Employee's spouse's emergency room visit on February 24, 1986, the Employee's daughter's emergency room visit on March 13, 1987 and the Employee's emergency room visit on December 15, 1987?

### Positions of the Parties

Position of the Employee: The Employer is required to pay the emergency room charges for all three visits because the services were rendered within the guidelines for coverage under the Employer Benefit Plan.

Position of the Employer: The Employer has not responded to repeated correspondence from Funds' staff requesting its position in this dispute.

### 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 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.

### Discussion

Under Article III. A. (2)(a) of the Employer Benefit Plan, benefits are provided for emergency medical treatment when it is rendered within 48 hours following the onset of acute medical symptoms.

A Funds' medical consultant has reviewed the clinical information pertaining to all three emergency room visits in question. The February 24, 1986 emergency room record indicates that the Employee's spouse complained of a fever with chills, sweating, weakness, dizziness, headache, nausea and a decrease in appetite. The record indicates that these symptoms began two weeks before her emergency room visit. The consultant advises that there is no indication of any increase in intensity or change in the patient's flu-like symptoms during the 48-hour period preceding the emergency room visit. The consultant is of the opinion that the patient's symptoms were not acute medical symptoms that would warrant emergency medical treatment. Accordingly, the Trustees conclude that the Employer is not required to pay the emergency room charge incurred on February 24, 1986.

The March 13, 1987 emergency room record indicates that the Employee's fifteen-year-old daughter had complained of a sore throat, fever and swollen lymph nodes that had begun three days prior to her visit to the emergency room. The consultant advised that there is no indication of any progression or change in the patient's symptoms during the 48-hour period preceding the emergency room visit. The consultant is of the opinion that the patient's symptoms were not acute medical symptoms that would warrant emergency medical treatment. Accordingly, the Trustees conclude that the Employer is not required to pay the emergency room charge incurred on March 13, 1987.

The December 15, 1987 emergency room record indicates that the Employee had complained of mid-back and abdominal pain, nausea and vomiting, that had begun about four hours before the emergency room visit. The Employee was diagnosed with a kidney stone and given an injection for pain. The consultant is of the opinion that the severe pain and nausea associated with the passage of a kidney stone are acute medical symptoms and that emergency medical treatment was warranted in this instance to treat such symptoms. Accordingly, the Trustees conclude that the Employer is required to pay the emergency room charge incurred on December 15, 1987.

#### Opinion of the Trustees

The Employer is not required to pay the emergency room charges resulting from the Employee's spouse's emergency room visit on February 24, 1986 and the Employee's daughter's emergency room visit on March 13, 1987. The Employer is required to pay the emergency room charge resulting from the Employee's emergency room visit on December 15, 1987.