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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-103 - March 1, 1989

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 health benefits coverage for a liquid nutrient under the terms of the Employer Benefit Plan.

Background Facts

The Employee's four-year-old dependent daughter has multiple birth defects. Due to her physical inability to swallow, she is fed a liquid nutrient through a tube surgically inserted into her stomach. The Employer has denied payment for the liquid nutrient.

Dispute

Is the Employer required to provide benefits for the liquid nutrient used by the Employee's daughter?

Positions of the Parties

Position of the Employee: The Employer is required to provide benefits for the liquid nutrient because it is necessary to sustain the child's life.

Position of the Employer: The Employer is not required to provide benefits for the liquid nutrient because it does not require a prescription for purchase.

Pertinent Provisions

Article III. A. (4) (a) of the Employer Benefit Plan states, in part:

(4) Prescription Drugs

(a) Benefits Provided

Benefits are provided for insulin and prescription drugs (only those drugs which by federal or state law require a prescription).

Article III. A. (7)(a) of the Employer Benefit Plan states:

(7) Other Benefits

(a) Orthopedic and Prosthetic Devices

Benefits are provided for orthopedic and prosthetic devices prescribed by a physician when medically necessary.

The following types of equipment are covered:

1. Prosthetic devices which serve as replacement for internal or external body parts, other than dental. These include artificial eyes, noses, hands (or hooks), feet, arms, legs and ostomy bags and supplies.

Q&A 81-38 states in pertinent part:

Subject: Medical Equipment and Supplies

References: Amended 1950 & 1974 Benefit Plans & Trusts,  
Article III, Sections A (6) (d) and (e), and A (7) (a) and (d)

Question:

What medical equipment and supplies are covered under the Plan?

Answer:

B. Under the Other Benefits provision, benefits are provided for the following:

1. Orthopedic and prosthetic devices prescribed by a physician when medically necessary, including items necessary for their effective use. These include, but are not limited to, the following items:

- prosthetic devices replacing internal or external body parts (other than dental), such as cardiac pacemakers, maxillofacial devices and devices replacing all of the ear or nose, and waste collection and retention devices for incontinent people (e.g., catheters, ostomy bags and supplies)
- prosthesis following breast removal, including surgical brassieres
- leg, arm, back and neck braces
- trusses
- stump stocking and harnesses (see Article III Section A (7) (a) 5)
- surgical stockings (see 1981 Contract Q&A #46)
- orthopedic shoes and corrections (see Article III Section A (7) (a) 7 and 8)

2. Hearing aids (see Article III Section A (7) (d)).

### Discussion

The Employee's daughter is unable to swallow and is being fed a nutritional formula, Complete B, through a gastrostomy tube. The Employer contends that, although the nutritional formula received by the Employee's daughter was prescribed by a physician, a prescription is not required to purchase the formula. Citing Article III. A. (4)(a), the Employer argues that, because Complete B cannot be considered a prescription drug but is an over-the-counter medication or food supplement, it is not covered. The Employer refers to numerous previous RODs in which the Trustees determined that benefits are generally not provided for infant formulas and diet supplements.

The distinguishing characteristic in this case, however, is that the child is receiving the nutritional formula through a gastrostomy tube, a prosthetic device. Article III. A. (7) (a) 1. provides benefits for prosthetic devices prescribed by a physician when medically necessary. A prosthetic device is generally defined as a device that serves as a replacement for an internal or external body part or function. Because the gastrostomy tube serves as a replacement for body parts that would normally permit food to reach the child's lower digestive tract, the tube is a prosthetic device. A Funds' medical consultant has reviewed the file and stated that the gastrostomy tube is, in this case, medically necessary. Hence, the gastrostomy tube is a covered device. Indeed, the Employer does not contend otherwise.

Moreover, Q&A 81-38 states that benefits are provided not only for prosthetic devices but for items necessary for their effective use. The Employee's daughter's physician prescribed the Complete B formula. A Funds' medical consultant has reviewed the file and has stated that the prescribed nutritional formula is medically necessary. In addition, Medicare coverage guidelines provide that such nutrient solutions are routinely covered for patients who cannot be sustained through oral feeding. Because it is medically necessary for the child to receive a special nutritional formula through a gastrostomy tube, the formula may be considered an item necessary for the medically effective use of the gastrostomy tube. Accordingly, benefits are provided for the nutritional formula in this case.

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Opinion of the Trustees

The Respondent is required in this case to provide benefits for the liquid nutrient used for the Employee's daughter's gastrostomy tube feedings.