

---

## OPINION OF TRUSTEES

---

### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-223 - January 24, 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 health benefits for psychological evaluation and therapy under the terms of the Employer Benefit Plan.

### Background Facts

The Employee's attorney suggested that the Employee obtain a psychological evaluation on a voluntary basis from a clinical psychologist to be used as part of the Employee's defense against a criminal prosecution. The Employee was evaluated by a clinical psychologist on July 6, 1989 and underwent individual psychotherapy sessions on September 16 and 30, 1989 and October 4, 14 and 21, 1989. The Employer's insurance carrier notified the Employee in a letter dated September 27, 1989 that it was denying benefits for the psychological evaluation and individual psychotherapy sessions because the evaluation was neither medically necessary nor ordered by a physician. The Employee's physician wrote a letter to the clinical psychologist dated October 16, 1989, referring the Employee for "medical care and treatment."

### Dispute

Is the Employer required to provide benefits for the Employee's psychological evaluation and individual psychotherapy sessions?

### Positions of the Parties

Position of the Employee: The Employer is required to provide health benefits for the Employee's psychological evaluation and individual psychotherapy sessions.

Position of the Employer: The Employer is not required to provide health benefits for the Employees's psychological evaluation and individual psychotherapy sessions because the evaluation was neither medically necessary nor ordered by a physician.

Pertinent Provisions

The Introduction to Article III of the Employer Benefit Plan states:

ARTICLE III--BENEFITS

Covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care, or are otherwise provided for in the Plan. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan. In determining questions of reasonableness and necessity, due consideration will be given to the customary practices of physicians in the community where the service is provided. Services which are not reasonable and necessary shall include, but are not limited to the following: procedures which are of unproven value or of questionable current usefulness; procedures which tend to be redundant when performed in combination with other procedures; diagnostic procedures which are unlikely to provide a physician with additional information when they are used repeatedly; procedures which are not ordered by a physician or which are not documented in timely fashion in the patient's medical records; procedures which can be performed with equal efficiency at a lower level of care. Covered services that are medically necessary will continue to be provided, and accordingly this paragraph shall not be construed to detract from plan coverage or eligibility as described in this Article III.

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

(7) Other Benefits

(f) Outpatient Mental Health, Alcoholism and Drug Addiction

Benefits are provided for:

Psychotherapy, psychological testing, counseling, group therapy and alcoholism or drug rehabilitative programs where free care sources are not available and when determined to be medically required by a physician.

Benefits are not provided for:

1. Encounter and self-improvement group therapy.
2. Custodial care related to mental retardation and other mental deficiencies.
3. School related behavioral problems.

4. Services by private teachers.
5. Alcoholism and drug rehabilitation if an advance determination has not been made by the rehabilitation team that the Beneficiary is a good candidate for rehabilitation.
6. Alcoholism and drug rehabilitation programs not approved by Medicare.

#### Discussion

According to the Introduction to Article III of the Employer Benefit Plan, covered services shall be limited to those services which are reasonable and necessary for the diagnosis or treatment of an illness or injury and which are given at the appropriate level of care. The fact that a procedure or level of care is prescribed by a physician does not mean that it is medically reasonable or necessary or that it is covered under this Plan. The Introduction further states that services that are not reasonable and necessary shall include procedures which are not ordered by a physician. Under Article III. A. (7) (f) of the plan, benefits are provided for psychotherapy, psychological testing, counseling, group therapy and alcoholism or drug rehabilitative programs when free care sources are not available and when determined to be medically required by a physician.

In this case, the Employee's attorney recommended that the Employee obtain a voluntary psychological evaluation from a clinical psychologist. The evaluation was performed on July 6, 1989, and the Employee began seeing the clinical psychologist for individual psychotherapy sessions on September 16, 1989. After the Employer denied benefits for the services on the basis that they were not ordered by a physician, the Employee's physician wrote a letter to the clinical psychologist referring the Employee for medical care and treatment. However, the letter does not specify the type of treatment for which the Employee was being referred or why such treatment was medically necessary. Because the medical necessity of the psychological testing and psychotherapy rendered in this case has not been established, as required under Article III. A. (7)(f), the Employer is not required to provide benefits for those services.

#### Opinion of the Trustees

The Employer is not required to provide health benefits for the Employee's psychological evaluation and individual psychotherapy sessions in this instance.