
OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 84-238 - January 28, 1987

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., 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 level of health benefits coverage for a laid-off Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant worked for the Respondent in a classified position until he was laid off on or about April 18, 1986. Based on Funds' records and pay stubs submitted by the Complainant, the Complainant worked over 2,000 hours for the Respondent in the 24-month period prior to his layoff. The Complainant has stated that his health benefits coverage was terminated April 1, 1986.

The Complainant has stated that the Benefit Plan implemented by the Respondent during his employment did not provide health benefits coverage at the level prescribed by the terms of the Employer Benefit Plan established pursuant to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1984. The Complainant has submitted a copy of his Blue Cross/Blue Shield identification card which indicates that benefit payments are subject to a \$100 deductible and, thereafter, are paid up to 80% of the cost of the service. The Complainant believes that this use of an 80/20 health coverage plan is in violation of the 1984 Wage Agreement which sets forth specific co-payments for rendered medical services (\$7.50) and for prescriptions (\$5.00).

The Complainant has submitted a copy of an unpaid bill for medical services rendered on April 20, 1986. He has also submitted receipts indicating that he paid in full bills incurred between December 9, 1985 and June 25, 1986 for prescriptions and medical services not covered under his Blue Cross/Blue Shield plan. The Complainant asks that the Respondent be found responsible for the provision of health benefits coverage at the level prescribed by the terms of the Employer Benefit Plan during his employment and during his period of eligibility for continued benefits coverage following his layoff.

The Funds determined that the Respondent was no longer in business, effective April 30, 1986. On December 22, 1986, the Complainant was advised by letter that the Funds may provide his health benefits coverage pursuant to Article II E. of the UMWA 1974 Benefit Plan and Trust, effective May 1, 1986. Eligibility for such coverage will extend only through the period of eligibility previously established under Article III D. (1) (a) of the Employer Benefit Plan and is subject to the terms and conditions set forth in the UMWA 1974 Benefit Plan and Trust.

The Respondent has failed to respond to repeated correspondence from Funds' staff requesting its position in this dispute.

Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant and his eligible dependents at the level prescribed by the Employer Benefit Plan prior to May 1, 1986?

Positions of the Parties

Position of the Complainant: The Respondent is responsible during the Complainant's period of eligibility for the provision of health benefits coverage for the Complainant and his eligible dependents at the level prescribed by the Employer Benefit Plan.

Position of the Respondent: The Respondent has failed to present its position in this dispute.

Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1984 provides in pertinent part:

(c) 1974 Plans and Trusts

(3)(i) Each signatory Employer shall establish and maintain an Employee benefit plan to provide, implemented through an insurance carrier(s), health and other non-pension benefits for its Employees covered by this Agreement as well as pensioners, under the 1974 Pension Plan and Trust, whose last signatory classified employment was with such Employer. The benefits provided by the Employer to its eligible Participants pursuant to such plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans.

Article I (1), (2) and (4) of the Employer Benefit Plan provide:

Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (coal company).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1984, 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.

Article II A. (2) and (3) of the Employer Benefit Plan provide:

Article II - Eligibility

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

A. Active Employees

Benefits under Article III shall be provided to any Employee who:

- (2) is on layoff or disabled from the Employer and had continuing eligibility as of the effective date of the Wage Agreement for coverage under the 1981 Employer's Benefit Plan ("prior Plan") as a laid off or disabled employee. Coverage for such laid-off or disabled Employees shall not continue beyond the date when they would no longer have been eligible for such coverage under the provisions of the prior Plan.
- (3) Except as provided in paragraph (2) above, any Employee of the Employer who is not actively at work* for the Employer on the effective date of the Wage Agreement will not be eligible for coverage under the Plan until he returns to active employment with the Employer.

Any Employee of the Employer who as of September 30, 1984, was eligible for benefits under the prior Plan who is not scheduled to work within two weeks after the effective date of the Wage Agreement because of lack of work, such an Employee will, for purposes of this Plan, be considered eligible for coverage under this Plan as of the effective date of the Wage Agreement but as an Employee on layoff as of such date.

* Actively at work includes an Employee of the Employer who was actively at work on September 30, 1984, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

Article III A. (8) and D. (1)(a) of the Employer Benefit Plan provide in pertinent part:
Article III - Benefits

A. Health Benefits

(8) Co-payments

Certain benefits provided in this Plan shall be subject to the co-payments set forth below and such co-payments 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.

Co-payments for Health Benefits are established as follows:

Benefit

Co-Payment

(a) Physician services as an out-patient as set forth in Section A (2) and physician visits in connection with the benefits set forth in Section A(3), paragraph (c) but only for pre- and post-natal visits if the physician charges separately for such visits in addition to the charge for delivery, and paragraphs (g) through (m), paragraph (n) except inpatient surgery, paragraph (o) and Section A(7) paragraph (f).

Working Group -- \$7.50 per visit up to a maximum of \$150 per 12-month period(*) per family.
Non-working Group -- \$5 per visit up to a maximum of \$100 per 12-month period(*) per family.

(b) Prescription drugs and insulin, as set forth in Section A(4) and take-home drugs following a hospital confinement as set forth in Section A(l)(a).

\$5 per prescription or refill up to a \$50 maximum per 12-month period(*) per family.

If an employee is covered under an employee Plan (established pursuant to the NBCWA of 1978) by more than one signatory employer during a 12-month period(*), the total co-payments made by the employee during

Note: For purposes of this co-payment provision, a prescription or refill shall be deemed to be each 30 days (or fraction thereof) supply.

such period shall be counted
toward the 12-month(*) maximum.

*The 12-month periods shall begin on the following dates: March 27, 1984; March 27, 1985;
March 27, 1986 and March 27, 1987.

D. General Provisions

(1) Continuation of Coverage

(a) Layoff

If an Employee ceases work because of layoff, continuation of health, life and accidental death and dismemberment insurance coverage is as follows:

<u>Number of Hours Worked for the Employer in the 24 Consecutive Calendar Month Period Immediately Prior to the Employee's Date Last Worked</u>	<u>Period of Coverage Continuation from the Date Last Worked</u>
2,000 or more hours	Balance of month plus 12 months
500 or more but less than 2,000 hours	Balance of month plus 6 months
Less than 500 hours	30 days

Discussion

Article XX Section (c)(3)(i) of the 1984 Wage Agreement requires each signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits to its Employees. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such plans shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such plans. Inasmuch as the Complainant worked over 2,000 hours in a classified position for the Respondent in the 24-month period prior to his layoff on April 18, 1986, the Respondent was responsible for providing his health benefits coverage as an active employee and continued health benefits coverage as a laid-off employee until May 1, 1988, when the Respondent was found to be "no longer in business" within the meaning of Article II E. of the 1974 Benefit Plan and Trust.

Article III. A (8) of the Employer Benefit Plan specifies the co-payments which are the responsibility of the beneficiary for medical services and prescriptions. Levels of benefits to be provided to Employees, Pensioners and their dependents and survivors are established through collective bargaining and may not be unilaterally changed by an Employer. The Respondent's use of a non-conforming 80/20 health coverage plan and its failure to provide coverage for prescription drugs is inconsistent with the provisions of the 1984 Wage Agreement and the Employer Benefit Plan.

Opinion of the Trustees

The Respondent's health coverage plan is inconsistent with the express provisions of the 1984 Wage Agreement. The Respondent is responsible for providing health benefits coverage for the Complainant and his eligible dependents at the level specified in the Employer Benefit Plan during the Complainant's active employment with the Respondent and for continuation of such coverage until May 1, 1986.