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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-27, July 25, 1983

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee;  
Paul R. Dean, 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 and other non-pension benefits coverage for an Employee by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

### Background Facts

The Employee worked for Employer A from March 1978 to September 30, 1981; also, from March 1982, to May 14, 1982, when he was laid off. During that period, Employer A was mining coal for Employer B under an Agreement which provides that Employer B would be responsible for payments to the United Mine Workers of America Health and Retirement Funds for coal royalties. In addition, Employer B provided benefits coverage to Employer A's Employees and Pensioners.

Employer B had reported 1,591 classified hours worked by the Employee during the 24-month period immediately prior to May 14, 1982, his date last worked. Nevertheless, Employer B cancelled the Employee's health and other non-pension benefit coverage effective June 30, 1981, because Employer A was no longer producing coal for it. Employer A claims that its contract with Employer B stipulated that Employer B was to provide health and other non-pension benefit coverage for the Employees of Employer A. The contract, a copy of which is in file, does not address benefit coverage.

Employer A submitted a "No Longer in Business Letter" to the Funds on January 14, 1982. The information contained in the letter indicated that Employer A had gone out of business on March 27, 1981. However, information received subsequently indicates that Employer A began operating again during September 1981 and is still in business.

The Employee has outstanding health services bills which were incurred during the periods July 1, 1981 through September 9, 1981, and March 4, 1982 through May 14, 1982.

### Dispute

Which Employer was responsible for providing coverage to the Employee and his dependents from June 7, 1981, through September 8, 1981, and March 4, 1982 through November 30, 1982?

Position of the Parties

Position of Employee: He wants to know which Employer was responsible for providing him with health and other non-pension benefit coverage after June 7, 1981.

Position of Employer A: It has a contract with Employer B which stipulated that Employer B would provide benefit coverage for Employer A's Employees.

Position of Employer B: It was only required to provide benefit coverage for Employer A's Employees during the periods when they were working on Employer B's property.

Pertinent Provisions

Article II. A. (1) of the 1981 Employer's Benefit Plan which provides:

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:

(1) is actively at work<sup>1</sup> for the Employer on the effective date of the Wage Agreement, or....

Article II.A. (2) of the 1981 Employer's Benefit Plan which provides:

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 1978 Employer's Benefit

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<sup>1</sup> Actively at work includes an Employee of the Employer who was actively at work on March 26, 1981, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

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 provision of the prior Plan.

Article III. D. (1)(a) of the 1981 Employer's Benefit Plan which provides:

E. General Provisions

1. Continuation of Coverage

(a) Layoff

If an Employee ceases work because of layoff, continuation of health, vision care, 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

Under Article II. A. (1) of the Employer's Benefit Plan, a signatory Employer is required to provide benefits coverage to its active Employees.

Under Article III.D. 1 (a) of the Employer's Benefit Plan, a laid-off employee who worked more than 500 hours for the Employer during the 24-calendar month period prior to the date he last worked is eligible for continuation of coverage for the balance of the month plus 6 months from the date last worked.

The Employee was actively employed by Employer A from March 1978, through September 9, 1981, and March 4, 1982 through May 14, 1982, when he was laid off. He was eligible for benefits coverage from Employer A as an active Employee during these periods.

The Employee worked more than 500 hours during the 24-calendar month period immediately prior to May 14, 1982. Therefore, he was eligible for continuation of coverage from Employer A from May 15, 1982 through November 30, 1982.

Employer A claims, however, that he is not responsible for providing coverage to the Employee because the contract between Employers A and B required Employer B to provide such coverage. The contract which Employer A has submitted for review does not support this claim, and Employer A has not submitted any other evidence in support thereof. In any event, even assuming that, during the period when Employer A was mining coal for Employer B, Employer A had delegated its obligations under the Employer's Benefit Plan to Employer B, this would not relieve Employer A of those obligations. Therefore, Employer A is responsible for providing coverage for the Employee and his eligible dependents from July 1, 1981, the date Employer B terminated his coverage, through September 8, 1981, and from March 4, 1982 through November 30, 1982.

#### Opinion of the Trustees

The Trustees are of the opinion that Employer A is responsible for the provision of health and other non-pension benefits coverage for the Employee and his dependents during the period July 1, 1981 through September 8, 1981, and March 4, 1982 through November 30, 1982.