
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-020 - September 14, 1988

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 provision of health benefits coverage under the terms of the Employer Benefit Plan.

Background Facts

The Complainants are laid-off Employees and a disabled Employee. The laid-off Employees last worked for the Respondent in February 1988. The disabled Employee last worked for the Respondent on September 24, 1987, when he became disabled as a result of a work-related injury. The representative for the Complainants states that the Respondent provided health benefits coverage for the Complainants through Blue Cross and Blue Shield until September 30, 1987. The Respondent subsequently provided coverage through Great West Life Insurance Company for one month, January 1988. The representative for the Complainants states that the Respondent did not provide any coverage during October, November and December 1987, and that the Complainants have been without health benefits coverage since January 31, 1988. The Complainants ask whether the Respondent is responsible for payment of the covered medical expenses incurred in October, November and December 1987, and for providing health benefits coverage beyond January 31, 1988.

The Respondent was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1984 which expired on January 31, 1988. On January 27, 1988, the Respondent signed an Interim Agreement indicating its intent to be bound by the terms of the agreement "successor to the 1984 National Agreement." The Respondent ceased operations in March 1988. The representative for the Complainants states that the Respondent advised the Complainants to seek health benefits coverage from the UMWA 1974 Benefit Plan and Trust.

Dispute

Whether the Respondent is responsible for payment of the covered medical expenses incurred by the Complainants in October, November and December 1987, and for providing health benefits coverage for the Complainants beyond January 31, 1988.

Positions of the Parties

Position of the Complainants: The Complainants ask whether the Respondent is responsible for payment of their covered medical expenses incurred in October, November and December 1987, and for providing their health benefits coverage beyond January 31, 1988.

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

Pertinent Provisions

Article XX(c)(3)(i) of the National Bituminous Coal Wage Agreement of 1984 and 1988 provides in pertinent part:

(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 (Employer's Name).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1988, 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. (1) and (4) and C. (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:

- (1) is actively at work¹ for the Employer on the effective date of the Wage Agreement; or
- (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

C. Disabled Employees

In addition to disabled Pensioners who are receiving pension benefits and are therefore entitled to receive health benefits under paragraph B of this Article II, health benefits under Article III shall be provided to any Employee who:

- (3) Is receiving or would, upon proper application, be eligible to receive Sickness and Accident Benefits pursuant to the Wage Agreement.

Article III. D. (1)(a) and (b) of the Employer Benefit Plan provide:

Article III - Benefits

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:

Number of Hours Worked for
the Employer in the 24
Consecutive Calendar Month

¹ Actively at work includes an Employee of the Employer who was actively at work on January 31, 1988, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

<u>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
(b) <u>Disability</u>	

Except as otherwise provided in Article II, section C, if an Employee ceases work because of disability, the Employee will be eligible to continue health, life and accidental death and dismemberment insurance coverage while disabled for the greater of (i) the period of eligibility for Sickness and Accident benefits, or (ii) the period as set forth in the schedule in (a) above.

Discussion

The Respondent was signatory to the 1984 Wage Agreement. Although it has not executed the 1988 Wage Agreement, the Respondent signed an Interim Agreement on January 27, 1988, in which it agreed to be bound by the terms and conditions of the "agreement successor to the 1984 National Agreement." The signatory status of an Employer who has signed such an agreement was addressed by the Trustees in ROD 84-055 (copy enclosed herein). In their decision, the Trustees concluded that such an Employer must be considered signatory to the successor Wage Agreement. Accordingly, the Respondent, by virtue of its executed Interim Agreement, is considered signatory to the 1988 Wage Agreement.

Article XX Section (c)(3)(i) of the 1984 and 1988 Wage Agreements requires a signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such Plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such Plan.

Article II A. of the Employer Benefit Plan provides health benefits coverage for active Employees working in classified jobs for a signatory Employer. Article II C. (3) provides health benefits coverage for a disabled Employee who is receiving or would be eligible to receive Sickness and Accident Benefits pursuant to the Wage Agreement. In addition, Article III. D. (1)(b) provides continued benefits coverage for an Employee who ceases work because of disability for the greater of (i) the period of eligibility for Sickness and Accident benefits, or (ii) the period based on the number of hours worked as set forth in Article III. D. (1)(a). Article III. D.(1)(a) provides continued benefits coverage for laid-off Employees for a defined period based upon the number of hours worked for the Employer during the 24-month period immediately prior to the date last worked.

Inasmuch as the Complainants were actively employed in classified positions by the Respondent until they were laid off or ceased work because of disability, the Respondent is responsible for providing health benefits coverage during their employment and during their individual periods of eligibility for continued coverage as determined under Article III. D. (1) (a) and (b) of the Employer Benefit Plan.

The Complainants have indicated that the Respondent advised them to seek health benefits coverage from the UMWA 1974 Benefit Plan and Trust. Under that Plan, a beneficiary is entitled to coverage if it is determined that the beneficiary's last Employer is "no longer in business." Such determination is made by the Trustees under established procedures separate from the ROD procedure.

Opinion of the Trustees

The Respondent is responsible for payment of the covered medical expenses incurred by the Complainants and their eligible dependents during their employment and during their individual periods of eligibility as disabled and laid-off Employees, as determined under Article III. D. (1) (a) and (b) of the Employer Benefit Plan.