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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-034 - November 8, 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 level of health benefits coverage for an Employee under the terms of the Employer Benefit Plan.

### Background Facts

The Complainant is a disabled Employee of the Respondent who is receiving Workers' Compensation as a result of an accident on April 11, 1988. The Complainant contends that the Benefit Plan implemented by the Respondent through Connecticut General Life Insurance Company as of June 1988 does 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 1988. Information provided to the Funds indicates that benefit payments are subject to an annual \$300 deductible per family and, thereafter, are paid up to 80% of the cost of the service.

On March 9, 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."

### Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant at the level prescribed by the Employer Benefit Plan?

### Positions of the Parties

Position of the Complainant: The Respondent is responsible for the provision of health benefits coverage for the Complainant at the level prescribed by the Employer Benefit Plan.

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 Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 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) 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 work\* for the Employer on the effective date of the Wage Agreement;

\* 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.

- (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

Article III A. (8) of the Employer Benefit Plan provides in pertinent part:

Article III - Benefits

A. Health Benefits

(B) 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(1)(a).	\$5 per prescription or refill up to a \$50 maximum per 12-month period(*) per family:

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

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\* The 12-month periods shall begin on the following dates: March 27, 1988; March 27, 1989; March 27, 1990; March 27, 1991 and March 27, 1992.

### Discussion

Although the Respondent has not executed the 1988 Wage Agreement, the Respondent signed an Interim Agreement on March 9, 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 1988 Wage Agreement 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 terms of the Agreement by that Employer at levels set forth in such Plan. Inasmuch as the Complainant is a disabled Employee of the Respondent, the Respondent is responsible for providing health benefits coverage for the Complainant under the terms of the Employer Benefit Plan.

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 is inconsistent with the provisions of the 1988 Wage Agreement and the Employer Benefit Plan. The Respondent is responsible for providing health benefits coverage for the Complainant as a disabled Employee for his individual period of eligibility and at the level specified in the Employer Benefit Plan.

### Opinion of the Trustees

The Respondent is responsible for providing health benefits coverage for the Complainant as a disabled Employee for his individual period of eligibility and at the level specified in the Employer Benefit Plan.