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## OPINION OF TRUSTEES

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### In Re

Complainants: Employees  
Respondent: Employer  
ROD Case No: 88-146 - June 8, 1990

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas K. 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 level of health benefits coverage for active Employees under the terms of the Employer Benefit Plan.

### Background Facts

The Complainants are classified Employees of the Respondent. The representative for the Complainants has submitted a copy of the Respondent's "Employee Benefit Program" which indicates that benefit payments are subject to a \$200 deductible for individual coverage and a \$600 maximum family deductible; thereafter, benefits are paid up to 90% of the cost of service if a preferred provider is used. If a preferred provider is not used, up to 80% of the cost of service will be paid. In addition, the Respondent's benefit plan provides a \$20,000 life insurance benefit and a \$20,000 accidental death and dismemberment benefit. The representative for the Complainants has also submitted copies of pay stubs and correspondence indicating that Employees who elect coverage for their dependents have a health insurance premium deducted from their paychecks. The representative for the Complainants contends that the Respondent's benefit plan does not comply with the provisions of the 1988 Wage Agreement and the Employer Benefit Plan. In addition, the representative asks that the Respondent be required to reimburse the Complainants the amount charged for their dependents' coverage.

### Dispute

Is the Respondent required to provide health benefits coverage for the Complainants at the level prescribed by the 1988 Wage Agreement and to reimburse the Complainants for insurance premiums deducted from their paychecks for dependent coverage?

### Positions of the Parties

Position of the Complainants: The Respondent's benefit plan does not comply with the provisions of the 1988 Wage Agreement and the Employer Benefit Plan, and the Respondent should be required to reimburse the Complainants for the premiums they were charged for coverage for their dependents.

Position of the Respondent: The Respondent states that it entered into an agreement with the UMWA in June 1989 whereby the Union agreed to waive the health benefits provisions of the Wage Agreement and, in exchange, the Respondent agreed to withdraw an unfair labor practice charge filed with the National Labor Relations Board.

#### Pertinent Provisions

Article Xx Section (c)(3)(i) of the 1988 Wage Agreement 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; or
- (4) a new Employee will be eligible for health benefits from the first day worked with the Employer.

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\* 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.

Article III A. (8) and B. (1) 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 hospital	\$5 per prescription or refill up to a \$5- maximum per 12-month period(*) per

family.

\* 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.  
Article III. a. (1) (a),(b) and (c) of the Employer Benefit Plan Provide:

B. Life and Accidental Death and Dismemberment Insurance

(1) Active Employees

Life and accidental death and dismemberment insurance will be provided for Employees, as described in Article II, Sections A and C (3), in accordance with the following schedule:

(a) Upon the death of an Employee due to other than violent, external and accidental means, life insurance in the amount of \$35,000 will be paid to the Employee's named beneficiary.

(b) Subject to (d) below, upon the death of an Employee due solely to violent, external and accidental means as the result of an injury occurring while insured and on or after February 1, 1988, life insurance in the amount of \$70,000 will be paid to the Employee's named beneficiary.

(c) If an Employee shall lose two or more members due to violent, external and accidental means as the result of an injury occurring while insured and on or after February 1, 1988, such Employee shall receive a \$35,000 dismemberment benefit. If an Employee shall lose one member due solely to violent, external and accidental means as the result of an injury occurring while insured and on or after February 1, 1988, such Employee shall receive a \$17,500 dismemberment benefit. A member for the purpose of the above is (i) a hand at or above the wrist, (ii) a foot at or above the ankle or (iii) total loss of vision of one eye.

Discussion

Article XX Section (c)(3)(i) of the 1988 Wage Agreement requires each signatory Employer to "establish and maintain an Employee benefit plan to provide, implemented through an insurance carrier(s), 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 at levels set forth in such Plan.

Article III. A. (8) of the Employer Benefit Plan provides that certain benefits provided under the Plan shall be subject to co-payments of \$5.00 or \$7.50, and such co-payments shall be the responsibility of the beneficiary until the specified maximum yearly amount is reached (\$150 for physician services and 550 for prescriptions per family of a working miner). In addition, Article III. B.(1) of the Employer Benefit Plan provides for a life insurance benefit in the amount of \$35,000, an accidental death benefit in the amount of \$70,000, and dismemberment benefits of \$17,500 for the loss of one member and \$35,000, for the loss of two or more members. The Respondent's benefit plan subjects benefits payments to deductibles and co-insurance payments which are inconsistent with the terms of the Plan. The Respondent's plan also provides life and accidental death and dismemberment benefits which are inconsistent with the terms of the Plan.

The Respondent in this case contends that the Union agreed to wave the death benefits provisions of the Wage Agreement and to permit the Respondent to continue its existing health coverage plan for the duration of the contract. The Complainant's representative states that the Union never entered into an agreement with the Respondent that would provide for a lower level of benefits than that set forth in the Wage Agreement. Although a letter dated June 13, 1989 indicates that counsel for the Respondent was writing to the Complainant's representative to confirm such an agreement, no evidence that such an agreement was actually executed by the parties has been submitted. Levels of benefit, to be provided to Employees, Pensioners and their dependents and survivors are established through collective bargaining and may not be unilaterally handed. Absent evidence of a bargained for agreement to the contrary, the Trustees conclude that the Respondent is required to provide health benefits coverage for the Complainants and their eligible dependents at the level specified in the Wage Agreement and the Employer Benefit Plan.

The Complainants have asked that the Respondent be required to reimburse them for health insurance premiums which the Respondent deducted from the Complainants' pay for dependent coverage. Article II D. of the Plan provides health benefits coverage to an Employee's eligible dependents as specified therein. There are no provisions under the 1988 Wage Agreement or the Employer Benefit Plan which require an Employee to pay premiums for an eligible dependent's coverage. Inasmuch as the Respondent's deduction of premiums from the Complainants' pay is inconsistent with the express provisions of the 1988 Wage Agreement and the Employer Benefit Plan, such premiums must now be refunded to the complainants.

#### Opinion of the Trustees

The Respondent's health coverage plan is inconsistent with the express provisions of the 1988 Wage Agreement and the Employer Benefit Plan. The Respondent is required to provide health benefits coverage for the complainants and their eligible dependents at the level specified in the Employer Benefit Plan, and to provide reimbursement for premiums paid by the Complainants to obtain coverage for their eligible dependents.