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## OPINION OF TRUSTEES

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### In Re

Complainants: Employees  
Respondent: Employer  
ROD Case No: 88-218 - February 23, 1990

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

### Background Facts

The Complainants are employed in classified positions by the Respondent, a signatory employer. The representative for the Complainants states that beginning June 12, 1989 there was a work stoppage at the Respondent's operations.

The Respondent notified the Complainants by letter dated June 22, 1989, that their employer-provided health benefits coverage would be terminated as of June 23, 1989 because the Complainants had not returned to work. The letter also stated that the Complainants could choose to continue such coverage at their own expense.

According to the Complainants' representative, the Complainants reported back to work on July 20, 1989 and found the gates of the Respondent's operations locked; the Complainants were told there was no work available. The Complainants returned to work on August 3, 1989. They were laid off on December 29, 1989.

The representative for the Complainants maintains that, although the Respondent's letter of June 22, 1989 states that the Complainants' health benefits coverage was terminated on June 23, 1989, the Respondent has not provided health benefits coverage for the Complainants since May 1, 1989. The Complainants have submitted copies of unpaid medical bills incurred by them since May 1, 1989.

### Dispute

Whether the Respondent is required to provide health benefits coverage for the Complainants beyond May 1, 1989.

#### Positions of the Parties

Position of the Complainants: The Respondent is required to provide health benefits coverage for the Complainants beyond May 1, 1989, during their employment, including the period during the work stoppage that began on June 19, 1989, and during their individual periods of eligibility for coverage as laid-off Employees.

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 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.... The plans established pursuant to this subsection are incorporated by reference and made a part of this Agreement, and the terms and conditions under which the health and other non-pension benefits will be provided under such plans are as to be 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. of the Employer Benefit Plan 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 works for the Employer on the effective date of the Wage Agreement; or
- (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 1984 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 January 31, 1988, 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.

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

\*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 D. (1) (a), (c) and (e) of the Employer Benefit Plan provide, in pertinent part:

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:

<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

(c) Leave of Absence

1. During any period for which an employee is granted an approved leave of absence for the purpose of accepting temporary employment with the United Mine Workers of America (UMWA) such Employee shall be eligible to continue health, life and accidental death and dismemberment insurance coverage for a period not to exceed 120 calendar days within any 12-month period.

2. During any period for which an Employee is granted an approved leave of absence for any other reason, such Employee's eligibility for health, life and accidental death and dismemberment insurance coverage shall be terminated as of the day last worked and shall not be reinstated until the Employee returns to active work except as provided in paragraph 3 below.

(e) Quit or Discharge

If an Employee quits (for any reason) or is discharged, health, life and accidental death and dismemberment insurance coverage will terminate as of the date last worked....

Discussion

The Complainants contend that the Respondent is required to provide health benefits coverage beyond May 1, 1989, including the period during the work stoppage that began on June 12, 1989. Article II A. of the Employer Benefit Plan provides health benefits coverage for active Employees. The Trustees have addressed the issue of an Employer's obligation under the Employer Benefit Plan to provide coverage for Employees during a work stoppage in ROD 88-181 (copy enclosed herein). In their decision in ROD 88-181, which, absent any finding to the contrary, assumed that the Wage Agreement was in full force and effect, the Trustees concluded that under the Employer Benefit Plan, the Employer was responsible for providing health benefits coverage for its Employees during the work stoppage. Accordingly, the Respondent is responsible for providing health benefits coverage for the Complainants during the work stoppage from June 12, 1989 through August 2, 1989. 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 prior to the date last worked. Inasmuch as the Complainants were classified Employees of the Respondent, the Respondent is responsible for providing their health benefits coverage beyond May 1, 1989, during the period they were performing classified work from May 1, 1989 through June 11, 1989, during the work stoppage from June 12, 1989 through August 2, 1989, during the period they were performing classified work from August 3, 1989 through December 29, 1989 and during their layoff that began on December 29, 1989, consistent with the terms of the Employer Benefit Plan.

Opinion of the Trustees

Based upon the provisions of and consistent with the terms of the Employer Benefit Plan, the Respondent is responsible for providing health benefits coverage to the Complainants and their eligible dependents beyond May 1, 1989 for the period the Complainants were performing classified work from May 1, 1989 through June 11, 1989, during the work stoppage from June 12, 1989 until the Complainants returned to work on August 3, 1989, during the period the Complainants performed classified work from August 3, 1989 through December 29, 1989, and during their individual periods of eligibility for coverage thereafter as laid-off Employees.