
OPINION OF TRUSTEES

In Re

Complainants: Employees
Respondent: Employer
ROD Case No: 88-374 - October 22, 1991

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Killer, 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 classified Employees of the Respondent, a signatory Employer. The Complainants contend that the Respondent has failed to 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 the Respondent provides health benefits coverage for the Complainants through Connecticut General Life Insurance Company. Under this policy, benefit payments are subject to an annual deductible of \$100 for each of the first three family members enrolled and, thereafter, benefits are paid at 80% of the cost of service until a beneficiary reaches the annual out-of-pocket limit of \$500 per person or \$1,500 per family. The Respondent has agreed to pay or reimburse the Complainants for any out-of-pocket expenses under the 80/20 plan that exceed the 12-month maximum co-payment amount specified under the Employer Benefit Plan. The Complainants contend that such payments are not being made. The Complainants have submitted copies of numerous bills and notices from collection agencies of balances due for medical expenses incurred during their employment with the Respondent.

The Respondent claims that it provides health benefits coverage for the Complainants as required by the Wage Agreement because its benefit plan is implemented through an insurance carrier. The Respondent states that it provides health benefits coverage at the level required by the Employer Benefit Plan because it reimburses the Complainants for their out-of-pocket expenses which exceed the 12-month maximum co-payment amount specified under the Employer Benefit Plan. The Respondent has submitted copies of checks made out to some of the Complainants as proof of their reimbursements for medical expenses.

Dispute

Is the Respondent's implementation of its health coverage plan in violation of the 1988 Wage Agreement?

Positions of the Parties

Position of the Complainants: The Respondent is in violation of the 1988 Wage Agreement by its use of an 80/20 health coverage plan.

Position of the Respondent: The Respondent is providing the level of coverage required under the 1988 Wage Agreement because each of the Complainants is ultimately only responsible for payment of the co-payment amounts required under the Employer Benefit Plan.

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.... 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 (10) of the 1988 Wage Agreement provides in pertinent part:

(10) Health Care:

Explanatory Note on Employer Provided Health Plans

Active miners and their surviving spouses and dependents, and pensioners, their dependents, and surviving spouses receiving pensions from the 1974 Pension Plan, will receive health care provided by their Employer through insurance carriers. A health services card identifying the Participant's eligibility for benefits under the health plan shall be provided by the Employer.

...

Claim forms will be available at most hospitals, clinics, and physician offices. Generally, nothing more is required than signing the forms authorizing the hospital, clinic, or physician to bill the insurance carrier for the services rendered. The insurance carrier will keep individual records for each Participant and dependent and will notify the Participant of the co-payments credited to his account. The hospital, clinic, or physician will bill the Participant for the co-payment amount until the maximum is reached. In some instances, when the Employee pays for services or drugs, the bills should be obtained and submitted with the claim form according to the instructions on the form. If the annual co-payment maximum has been reached,- the carrier will remit to the Participant the full payment for covered benefits.

Covered drug prescriptions may be filled at drugstores, clinics and hospital prescription offices.

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

*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

(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....

Co-Payments for covered Health Benefits are established as follows:

Benefits	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 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.

*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

Article XX Section (c)(3)(i) of the 1988 Wage Agreement requires a signatory Employer to establish and maintain an Employer Benefit Plan, implemented through an insurance carrier(s), 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 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. The usual procedure for filing claims as contemplated under Article xx (10) of the Wage Agreement is one in which the beneficiary is expected to authorize the provider to bill the insurance carrier for services rendered and to pay only the co-payment charge set forth in Article III. A. (8), until the specified maximum yearly amount is reached.

The Respondent provides coverage for the Complainant under an 80/20 plan implemented through Connecticut General Life Insurance Company and has offered to reimburse the Complainants for their out-of-pocket expenses which exceed the co-payment amounts set forth in the Plan. The procedure for filing claims and the method of payment established by the Respondent is inconsistent with the claim procedure contemplated under the terms of the Wage Agreement and the Employer Benefit Plan. In addition, in ROD 88-235 (copy enclosed herein), the Trustees have previously addressed the issue of whether an Employer can partially implement its plan through an insurance carrier and offer to pay or reimburse its Employees for their out-of-pocket expenses in excess of the applicable co-payment amounts. In that opinion, the Trustees concluded that such practice is inconsistent with the express provisions of the Wage Agreement and the Employer Benefit Plan. Accordingly, the Respondent's use of a non-conforming health coverage plan and its offer to pay or reimburse Employees for certain out-of-pocket expenses are inconsistent with the express provisions of the Wage Agreement and the Employer Benefit Plan.

Opinion of the Trustees

The Respondent's use of a non-conforming health coverage plan and its offer to pay or reimburse Employees for certain out-of-pocket expenses are inconsistent with the express provisions of the 1988 Wage Agreement and the Employer Benefit Plan.