
OPINION OF TRUSTEES

In Re

Complainants: Employees
Respondent: Employer
ROD Case No: 88-591 - August 26, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Elliot A. Segal, 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 non-standard health benefits coverage under the terms of the Employer Benefit Plan.

Background Facts

The Complainants are Employees who were laid off by the Respondent, a Signatory Employer, on February 7, 1992. The Complainants state that the Respondent notified them that their current health benefits coverage had been reduced. The Complainants further state that the reduced coverage fails to meet the levels mandated by the terms of the Employer Benefit Plan established pursuant to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1988.

The Complainants have submitted a copy of a letter dated April 1, 1992 from the Respondent stating that, effective that date, the Respondent would continue to purchase health insurance coverage, but with substantial changes in benefits. The new coverage provides for an 80/20 plan with deductibles, and a PCS (prescription) card with a \$5 deductible. Additionally, the revised plan does not include vision care coverage. The complete provisions of the Respondent's plan were not submitted to the Trustees for review. The Respondent states in his letter to the Complainants that the aforementioned coverage is the only coverage to be provided subsequent to March 31, 1992, and that previous levels of reimbursements will be discontinued.

The Respondent states that coverage was reduced so that it could be provided for a longer period of time than would otherwise be possible due to the limited funds available. No other information has been provided by the Respondent.

Subsequent to the April 1, 1992 letter, the Respondent sent a second letter to all Employees and Retirees stating that effective July 1, 1992 the Respondent would be unable to provide any health insurance coverage. The letter goes on to state that the Employees and Retirees will be afforded

the opportunity to convert to an individual plan. This would, however, be at the expense of the Employee or Retiree. This letter reaffirms that the reason for these actions is a lack of funds with which to pay the premiums.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainants and their eligible dependents at the level prescribed by the Employer Benefit Plan?

Positions of the Parties

Position of the Complainants: The Respondent is required to provide health benefits coverage for the Complainants and their eligible dependents at the level prescribed by the Employer Benefit Plan.

Position of the Respondent: The Respondent states that, since no Complainant has presented bills for payment and, therefore, there has been no refusal to pay benefits, there is no dispute. The Respondent also states that the April 1, 1992 letter confirming the reduction of benefits speaks for itself.

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 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 III A. (8) (a) 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:

<u>Benefit</u>	<u>Co-Payment</u>
(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.

*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. (9) (a) of the Employer Benefit Plan provides in pertinent part:

(9) Vision Care Program
Actual Charge Up To

<u>(a) Benefits</u>	<u>Maximum Amount</u>	<u>Frequency Limits</u>
Vision Examination	\$20	Once every 24 months
Per Lens (Maximum = 2)		Once every 24 months
- Single Vision	10	
- Bifocal	15	
- Trifocal	20	
- Lenticular	25	
- Contact Frames	15 14	Once every 24 months

Note: The 24-month period shall be measured from the date the examination is performed or from the date the lenses or frames are ordered, respectively, even if the last examination occurred during a prior Wage Agreement.

Article III D. (1) (a) of the Employer Benefit Plan provides in pertinent part:

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

Discussion

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. Article III A. (9) establishes coverage for vision care according to a pre-determined schedule of benefits. The usual procedure for filing claims as contemplated

under the terms 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 procedure for filing claims and the method of payment established by the Respondent in this case is inconsistent with the claim procedure contemplated under the terms of the Wage Agreement and the Employer Benefit Plan.

Article XX Section (c)(3)(i) of the 1988 Wage Agreement requires each 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. Article III D. (1) (a) of the Employer Benefit Plan addresses the issue of continuance of coverage for laid-off Employees. The length of the continuation of coverage, ranging from 30 days to 12 months, is determined by the number of hours the Employee had worked for a signatory Employer in the 24 months immediately preceding the layoff. The Wage Agreement further 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. Thus, levels of benefits to be provided to Employees, Pensioners and their dependents and survivors which are established through collective bargaining may not be unilaterally changed. Given the clear language of Article XX, an Employer cannot arbitrarily change the Plan benefits to suit his financial needs nor can he cancel benefits coverage completely. The Trustees conclude that the Respondent's use of a non-conforming health coverage plan for the period April 1, 1992 through June 30, 1992, and the Respondent's cancellation of all medical coverage effective July 1, 1992 is inconsistent with the express provisions of the Wage Agreement and the Employer Benefit Plan.

Opinion of the Trustees

The Respondent's implementation of a non-conforming health benefit plan for the period April 1, 1992 through June 30, 1992 and the elimination of a health benefit plan effective July 1, 1992 is inconsistent with the express provisions of the 1988 Wage Agreement. 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 for payment-of the Plan-covered medical expenses incurred by the Complainants and their eligible dependents.