
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 02-015 – February 9, 2005

Trustees: Micheal W. Buckner, A. Frank Dunham, Michael H. Holland, and
Elliot A. Segal.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits under the terms of the Employer Benefit Plan.

Background Facts

The Complainant's last signatory Employer was the Respondent. The Complainant was awarded a 30-and Out pension under the 1974 Pension Plan effective April 1, 2003. The 30-and-Out pension was introduced under the National Bituminous Coal Wage Agreement (Wage Agreement) of 2002. In general, this pension type is provided to an Employee who ceased work in a classified signatory job on or after January 1, 2003, and who has at least thirty years of signatory service on his date last worked. When a mine worker receiving a 30-and-Out pension attains age 55, he becomes eligible for health benefits coverage from his last signatory Employer. The Complainant is not yet age 55.

The Complainant was also awarded Social Security Disability Insurance benefits (SSDI) effective July 24, 2002, and claims that he meets the eligibility requirements to receive health benefits coverage as a disabled Employee under Article II C. (1) of the 2002 Employer Benefit Plan. Under Article II C. (1), certain disabled Employees are eligible for health benefits coverage until they attain age 55 if they meet the following requirements: have not attained age 55; satisfy the 20-year service pension eligibility requirement under the 1974 Pension Plan; became disabled after December 6, 1974, while in classified employment with the Employer; and are eligible for Social Security Disability Insurance benefits under Title II of the Social Security Act.

The Respondent has denied coverage for the Complainant as a disabled Employee under Article II C. (1).

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant as a disabled Employee under Article II C. (1) while he is receiving a 30-and-Out pension under the 1974 Pension Plan?

Positions of the Parties

Position of the Complainant: The Complainant meets the eligibility requirements to receive health benefits coverage under Article II C. (1); therefore, the Respondent is required to provide coverage for the Complainant as a disabled Employee.

Position of the Respondent: The Complainant is not eligible for coverage as a disabled Employee under Article II C. (1) because even though the Complainant meets the eligibility requirements, when he elected to receive his 30-and-Out pension the Complainant forfeited his rights to receive coverage under this Article. Furthermore, the Respondent claims that the Complainant is a “Pensioner” and not an ‘Employee’ and therefore [is] not eligible for health benefits coverage until attainment of age 55.” The Respondent states its position is supported by the Trustees opinion in ROD 98-020.

Pertinent Provisions

Article XX (10)(c) of the 2002 National Bituminous Coal Wage Agreement provides:

Article XX – HEALTH AND RETIREMENT BENEFITS

(10) HEALTH CARE:

Health care benefits provided under the Employer Benefit Plan are guaranteed during the terms of this Agreement subject to the terms of this Agreement at the level of benefits provided in the Employer Benefit Plan.

- (c) Pensioners receiving a Special Permanent Layoff Pension or a Special 30-and-Out Layoff Pension will be provided health benefits from their Employers in accordance with the layoff benefits otherwise provided under this Wage Agreement; subsequently, upon reaching age 55, such pensioners shall receive health benefits from their Employers. Pensioners receiving a 30-and-Out Pension will, upon reaching age 55, receive health benefits from their Employers.

Article XX (7)(g) of the 2002 National Bituminous Coal Wage Agreement provides:

- (g) 30-and-Out Pension – If a working miner meets the following criteria:
 - (i) his last day of credited service under the 1974 Pension Plan is on or after January 1, 2003; and

- (ii) he had at least 30 years of signatory service on such last date of credited service;
- (iii) if, because of layoff, he was not actively at work as of December 31, 2001:
 - (I) he earned at least 250 hours of credited signatory service following his return to work, or
 - (II) he returned to active employment as the result of a recall determined by the Trustees to have been to fill a bona fide job opening, and not for the purpose of entitling the Participant to this 30-and-Out Pension benefit; then the miner will be eligible to receive a pension computed under the provisions of (3) above, but with no actuarial reduction on account of age.

Article I (2), (4) and (5) of the 2002 Employer Benefit Plan provides:

ARTICLE I DEFINITIONS

The following terms shall have the meanings herein set forth:

- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 2002, 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.
- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan; or (iii) a special permanent layoff pension, special 30-and-out layoff pension, or 30-and-Out pension under the terms of Article II. E(4), II.E(5), or II.E.(6) of the 1974 Plan, during any period prior to the person's attainment of age 55. "Pensioner" shall not mean any individual entitled to benefits under section 9711 of the Internal Revenue Code of 1986, as amended by the Coal Industry Retiree Health Benefit Act of 1992.

Article II C. (1) of the 2002 Employer Benefit Plan provides:

ARTICLE II ELIGIBILITY

C. Disabled Employees

In addition to disabled Pensioners who are receiving pension benefits and are therefore entitled to receive health benefits under section B of this Article II, health benefits under Article III shall also be provided to any Employee who:

- (1)(a) has completed 20 years of credited service, including the required number of years of signatory service pursuant to Article IV C(6) of the 1974 Pension Plan or any corresponding paragraph of any successor thereto, and
 - (b) has not attained age 55, and
 - (c) became disabled after December 6, 1974 while in classified employment with the Employer, and
 - (d) is eligible for Social Security Disability Insurance Benefits under Title II of the Social Security Act or its successor;

Discussion

The Complainant is currently receiving a 30-and-Out pension and has not yet reached age 55. In 2002, Article I (5) (iii) of the Employer Benefit Plan and Article XX (10) (c) of the Wage Agreement were amended to include references to individuals receiving 30-and-Out pensions who have not reached age 55. In ROD 98-007, an arbitrator decided the issue of whether a mine worker who is not yet age 55 is eligible for health coverage under Article II C. (1) while also receiving a type of pension described in Article I (5) (iii) of the 1998 Employer Benefit Plan. The arbitrator determined that an Employer is not required to provide continued health coverage to a special permanent layoff pensioner as a disabled Employee under the Employer Benefit Plan and that the Complainant would be eligible for Employer-provided coverage upon the attainment of age 55. In ROD 98-020, the Trustees followed ROD 98-007 and denied eligibility in a similar case involving an individual receiving a special permanent layoff pension.

Opinion of Trustees

The Respondent is not required to provide health benefits coverage to the Complainant under Article II C. (1) while the Complainant is under the age of 55 and receiving a 30-and-Out pension under the 1974 Pension Plan. As a 30-and-Out pensioner, the Complainant will be eligible for health benefits coverage upon attainment of age 55.