
OPINION OF TRUSTEES

In Re

Complainant: Pensioners
Respondent: Employer
ROD Case No: 07-0003 – July 25, 2007

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

Complainants are Pensioners receiving UMWA 1974 Pensions. Respondent is the last signatory Employer of Complainants, and has been providing health benefits for Complainants since eligibility was established. Respondent was last signatory to the 1998 National Bituminous Coal Wage Agreement (NBCWA). Under the terms of the 1998 NBCWA, Respondent became obligated to provide health benefits under the terms of the 1998 Employer Benefit Plan (“Employer Benefit Plan”). Under the Employer Benefit Plan, Eligible Pensioners and surviving spouses were required to pay a \$750 deductible per family per calendar year before any amounts for health coverage were paid by Respondent. In accordance with the NBCWA, Eligible Pensioners and surviving spouses received a yearly health care payment of \$1,000 from the UMWA 1974 Pension Plan. The Employer Benefit Plan provides that the deductible applicable to a family for a calendar year will not exceed 75 percent of the gross amount of the health care payment paid to that family either from the Respondent or from the UMWA 1974 Pension Plan. Complainants received a yearly health care payment of \$1,000 from the UMWA 1974 Pension Plan through calendar year 2006. For calendar year 2007, neither the UMWA 1974 Pension Plan nor the Respondent made a health care payment to the Complainants. Respondent continues to require Complainants and its other pensioners and surviving spouses to pay the yearly \$750 deductible.

Dispute

Must Complainants pay the \$750 deductible demanded by Respondent?

Positions of the Parties

Position of the Complainant: The existence of the \$750 deductible is contingent on the payment of the \$1000 yearly payment from the UMWA 1974 Pension Plan or the Employer. Under the NBCWA, the deductible is 75 percent of the health care payment. Because the retirees did not receive any health care payment in 2007, they should also have no deductible.

Position of the Respondent: Respondent was last signatory to the 1998 NBCWA, and has not yet agreed to a new collective bargaining agreement. Respondent continues to abide by the 1998 NBCWA as required by law. Respondent disputes the elimination of the \$1000 yearly health care payment as a unilateral decision, and states that to unilaterally discontinue following the provision of the expired collective bargaining agreement would be “a violation of the National Labor Relations Act.” Respondent maintains that it may continue to request a \$750 deductible annually from its Pensioners and surviving spouses as stipulated under the terms of the 1998 NBCWA.

Pertinent Provisions

The NBCWA of 1998 states in pertinent part:

Article XX – Health and Retirement Benefits

Section (a) General Purpose

This Article makes provision for pension, health and other benefits for Employees covered by this Agreementand for the spouses and dependents of such Employees.

(10) HEALTH CARE

Enhanced Cost Containment Program

In an effort to address the problems generated by the ever-increasing cost of health care, while maintaining a high level of benefits, the parties have mutually agreed to adopt managed care and cost containment programs.

C. Health Care Payment/Deductible

On January 1 of each year during the term of this agreement (or such later date an individual first becomes an eligible Participant), each eligible participant will receive a lump sum health care payment of \$1,000.00. For purposes of this provision, “eligible participants” means active Employees,

laid-off Employees, and disabled Employees prior to eligibility for Medicare benefits, who are participants in the Employer Plan maintained pursuant to this Article. Notwithstanding the foregoing, a laid-off Employee shall receive a pro-rata health care payment that reflects the number of calendar quarters during which he is entitled to Employer-provided health care under the plan during the calendar year. A health care payment shall not be paid to any individual who is not then entitled to Employer-provided benefits under the Employer Plan.

During the term of this Agreement, 1974 Pension Plan Pensioners under age 65, and surviving spouses under age 65, whose last signatory employer is signatory to this Agreement (or to an Agreement with identical employee benefit obligations) will receive the \$1,000 payment described in the preceding paragraph from the 1974 Pension Plan.

All health benefits provided under the Employer Plan will be subject to a \$750 deductible per family per calendar year. The first \$750 of all covered medical expenses incurred by any covered family member will be counted toward satisfying the deductible.

A family shall not be required to pay a deductible in any calendar year that exceeds 75 per cent of the amount of the Health Care payment paid for that year.

Article III, Section A.(8) of the 1998 Employer Benefit Plan provides:

(8) Co-Payments and Deductibles

Effective January 1, 1997, the benefits provided in this Plan shall be subject to the co-payments and deductibles set forth below and such co-payments and deductibles shall be the responsibility of the Beneficiary...Deductibles for covered Health Benefits refer to the first portion of covered benefits that must be paid by a Beneficiary during a calendar year before any amounts will be paid by the Plan. The first \$750 of all covered medical expenses incurred by any covered family member will be counted toward satisfying the deductible. Vision care and prescription drug expenses are not subject to the deductible. Any deductible applicable to a covered benefit must be met before co-pays apply. In no event will the deductible applicable to a family for a calendar year exceed the 75 percent of the gross amount of the Health Care payment paid for that year to that family either from the Employer or from the UMWA 1974 Pension Plan pursuant to Article XX (General Description) (10) c of the 1998 NBCWA.

Discussion

Respondent was last signatory to the 1998 NBCWA. The 1998 NBCWA provides for a \$750 deductible in conjunction with a \$1,000 yearly health care payment. Article XX of the NBCWA states that the purpose of the joint implementation of the \$750 yearly health plan deductible and the \$1000 yearly health care payment was to address rising health care costs in a cost-effective way while maintaining a high level of benefits for participants. Up to and until calendar year 2007, the \$1,000 yearly health care payment was paid to Complainants by the UMWA 1974 Pension Plan. The 1998 Employer Benefit Plan states that the Health Care payment would be paid to Complainants either by the UMWA 1974 Pension Plan or the Employer. Both the 1998 NBCWA and the 1998 Employer Benefit Plan state that a family shall not be required to pay a deductible in any calendar year that exceeds 75 percent of the amount of the Health Care payment for that year. The 2007 NBCWA eliminated the UMWA 1974 Pension Plan's obligation to pay the Health Care payment to Complainants, and the Respondent did not pay the \$1,000 Health Care payment to Complainants for calendar year 2007.

Respondent's position ignores Article III, Section A.(8) of the Employer Plan which states that a family shall not be required to pay a deductible in any calendar year that exceeds 75 percent of the amount of the Health Care payment for that year that is paid by the Employer or the 1974 Pension Plan. Without the Health Care payment from either the UMWA 1974 Pension Plan or the Respondent, the yearly deductible under the above-stated 75 percent provision is zero. Continued demand for payment of the \$750 annual deductible when the corresponding provision for the \$1,000 yearly health care payment has not been paid is inconsistent with the Employer Benefit Plan.

Opinion of the Trustees

Consistent with the provisions of the Employer Benefit Plan and the National Bituminous Coal Wage Agreement, the Respondent may not impose a mandatory \$750 deductible to the health care plan of its pensioners, absent the payment of the yearly health care payment.