

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 32 - October 25, 1979

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee;  
Paul R. Dean, Trustee.

Pursuant to Article IX of the United Mine Workers of America 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 to an Employee during the strike period (December 6, 1977 - March 26, 1978) by an Employer and hereby render their opinion on the matter.

Background Facts

The Employee began working for the Employer in December, 1972 and continued to December 6, 1977, beginning date of the strike which preceded signing of the NBCWA of 1978. He returned to work for the Employer after March 27, 1978, the effective date of the Agreement.

The Employer signed the NBCWA of 1978 on March 25, 1978, prior to its effective date and called certain employees (not including the disputant) to work in order to get the mine ready for operation as of the effective date, 12:01 a.m. March 27, 1978. The employees who worked on March 25 and 26 were paid wages under the terms of the 1978 Agreement and also received the \$100 Allowance provided under Article IX Section (f) of the Agreement; the hours worked by those employees on March 25 and 26 were reported to the Funds and presumably credited for pension purposes.

The Employer elected to provide health benefit coverage from the date of the Agreement and furnished the disputant Employee and other Employees with a Health Benefit card identifying them as beneficiaries eligible for health benefit coverage as of "March, 1978" (actual date in March not shown).

On March 25, 1978, the Employee's pregnant wife entered the hospital; she delivered on March 26, 1978 at 4 p.m. The Employer has refused to pay for any hospital or medical expenses incurred by the Employee's wife prior to March 27, 1978. The Employee filed a grievance on the matter, however, no settlement was reached and it has been referred to the Trustees. The Employee has also applied to the Miners Relief Fund for help in paying the bill.

Dispute

Is the Employer responsible for providing health benefit coverage for the Employee prior to March 27, 1978?

Pertinent Provisions

- (1) NBCWA of 1978, Article XX, Section (c) 1974 Plans and Trusts
- (2) NBCWA of 1978, Article XXIX Ratification and Termination of the Agreement
- (3) Health Q&A Control No. 14 (4/7/78)

Positions of the Parties

Employee's Position: The membership of the UMWA ratified the contract on Friday, March 24, 1978; the Employer called Employees to active work on March 25 and 26, and signed the 1978 Agreement on the evening of March 25, paying those Employees under the new Agreement. Therefore, the Employer should be liable for health benefit coverage for all Employees effective March 25, 1978. See statement attached.

Employer's Position: The Employer feels that responsibility for health benefit coverage began on March 27, 1978, the effective date of the 1978 Agreement. See statement attached.

Opinion of the Trustees

The Trustees are of the opinion that the Employer's responsibility for payment of health benefits under the benefit plan for Employees who were not recalled to work on March 25 began on March 27, 1978 under the terms of Article XX of the NBCWA of 1978; any medical services received by the Employee or his dependents prior to that date are not covered by the plan.