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OPINION OF TRUSTEES

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In Re

Complainant: Employee

Respondent: Employer

ROD Case No: 80 - March 17, 1980

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 about an individual Employee's eligibility for health and other non-pension benefits from an Employer and hereby render their opinion on the matter.

Background Facts

The Employee was employed by the Employer from 1969 to April 1976 when he was granted a leave of absence to serve as an elected UMWA official. His term of service with the UMWA ended May 31, 1979 and he returned to work for the Employer on June 5, 1979. He worked a total of 236 hours for the Employer up to August 10, 1979 when he was laid off. The Employer terminated his coverage under the Employer's Benefit Plan 30 days after the date the Employee last worked. The Employee asserts that he should be covered for the maximum period (one year) after the layoff.

Dispute

For what period is the Employer responsible for providing health and other non-pension benefit coverage to the Employee from the date of layoff?

Positions of the Parties

Employee's Position: The Employee contends his employment with the UMWA after March 28, 1979 should be credited as hours worked toward the 2,000 hour requirement, which he feels would entitle him to the maximum period of benefit coverage. His contention is based on the following:

- (1) His UMWA employment after March 27, 1978 is creditable as classified signatory employment under the 1974 Pension Plan regulations, as amended; and

- (2) When a person retires from the UMWA and begins receiving a 1974 Plan pension, the coal industry signatory Employer with whom he was last employed in a classified job provides his health coverage.

Position of the Employer: The Employer states that the Employee worked less than 500 hours for his Employer ("Employer" as defined in Article I(1) of the Employer's Benefit Plan) and is therefore eligible for a maximum of 30 days' coverage from date last worked under the express provisions of the 1978 Benefit Plan. The Employer also states that the Employee's position is based on provisions of the pension plan which have no bearing on eligibility for extended health benefit coverage or other non-pension benefits.

#### Pertinent Provisions

- (1) Article XX, Section (4) of General Description of NBCWA of 1978.
- (2) Article XX, opening paragraph of General Description of NBCWA of 1978.
- (3) Article I (1) of Employer's Benefit Plan.
- (4) Article III E(1) of Employer's Benefit Plan.

#### Discussion

Article III E(1)(c) 3 of the Employer's Benefit Plan provides that health benefit coverage is suspended during a period of leave granted for any other reason than "temporary" UMWA employment or maternity leave. Following the rationale that the Employee's status was suspended while serving as a UMWA official and that it was reinstated, with no loss of benefits, upon expiration of his term, the period of employment with the Employer during the period immediately prior to his leave of absence would be combined with the employment after his return to employment with the Employer to form a continuous period of employment. In determining the number of hours worked with the Employer during the "24-month period" prior to layoff, the Employee would be credited with the number of hours worked during the 21-month period from July, 1974 to April, 1976 in addition to the 236.75 hours worked during the 3-month period from June, 1979 to August, 1979.

#### Opinion of the Trustees

The Trustees are of the opinion that the Employee is entitled to continued coverage based on the number of hours worked for the Employer during the periods from July, 1974 to April, 1976 and from June, 1979 to time of layoff in August, 1979. This determination will be made pursuant to Article III E(1)(a) of the Employer's Benefit Plan with continuous coverage of one year for 2000 or more hours worked, six months for 500 to 2000 hours worked and 30 days for less than 500 hours worked.