

January 27, 1981

(Opinion issued in letter form; name and address deleted)

ROD No. 117

This is in reference to your request for an advisory opinion from the Trustees of the UMWA Health and Retirement Funds concerning your eligibility for health and other non-pension benefit coverage under the Employer's Benefit Plan ("Employer's Plan") while you are receiving State Unemployment Compensation Benefits.

The information submitted in this case indicates the following:

You are currently receiving a service pension under the provisions of the 1974 Pension Plan.

You worked for your last Employer for seven years, three months as a drag-line operator; in September 1979 you were the most senior Employee.

The Employer notified you that a lay-off of employees was planned and asked you when you planned to retire. You did not give a date. On September 28, 1979, you had an argument with a company official which resulted in the official complaining to your Local Union. The Employer notified you that the matter would be dropped if you would select a retirement date. Your last work date was September 29, 1979 and you agreed to retire on September 30, 1979.

Your application for State Unemployment Compensation Benefits was denied on October 26, 1979, holding you ineligible on the following grounds: "his unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature."

You appealed the denial of your unemployment benefits and the denial was reversed by a Referee who ruled that you were "involuntarily separated from (your)employment." Inasmuch as you were eligible to receive a Funds' Pension effective October 1, 1979, your State Unemployment Compensation Benefits were subsequently reduced to \$97.00 per week.

The Employer refused to provide you with health and other nonpension benefits during the period you are receiving State Unemployment Compensation Benefits in addition to your Funds' pension.

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Based on the facts as stated above, it is the opinion of the Trustees that in this case the Unemployment Compensation Benefits should not be considered "earnings" within the meaning of Article II, Section B of the Employer's Plan, which provides, in part, that health benefits shall not be provided for any month in which a Pensioner "earns" more than \$200.00. Therefore, it is the Trustees' opinion that the Employer is responsible for the provision of health and other non-pension benefits during the period that you are receiving State Unemployment Compensation benefits.

Sincerely,

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Harrison Combs, Chairman

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John J. O'Connell, Trustee

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Paul R. Dean, Trustee