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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 239 - September 30, 1981

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 eligibility of a laid-off Employee for health benefit coverage under the Employer's Plan.

### Background Facts

The Employee, who was employed in a classified job, last worked for the Employer in April, 1980. He was laid off and placed on a lay-off panel when the mine shut down on May 1, 1980. Under Article III, Section E (1) (a) of the Employer's Plan, the Employee was eligible for continuation of coverage from April 1980 through April 30, 1981 based on the fact that he had worked more than 2,000 hours in the 24 calendar month period prior to his last date worked. During September 1980, the Employee's spouse became pregnant. The 1978 National Bituminous Coal Wage Agreement terminated on March 26, 1981. An economic strike commenced on March 27, 1981 and lasted until June 6, 1981.

On March 6, 1981, the Employer notified all employees that, in accordance with Article III. E (2) of the Employer's Plan, the premiums for health and other non-pension benefits would be automatically advanced for employees for the first 30 days of an economic strike, but that the employees would be required to reimburse the Employer. In addition, the employees were given the option of continuing their benefit coverage beyond the 30 day period by remitting a check for the premium amount to the Employer. This option was also extended to those employees on lay-off and receiving S & A benefits, to the extent of their remaining eligibility for continuation of benefit coverage under the Employer's Plan. The Employee elected to continue his benefit coverage by remitting a check to the Employer and believed that his coverage would be extended until May 26, 1981.

The Employee was later notified by the Employer that he could elect to extend his coverage by remitting payment for another premium. The Employee forwarded a second check to the

Employer and believed that his coverage would be continued for another 30 days, until June 25, 1981.

The Employee's spouse delivered a baby on June 18, 1981. Claims for obstetrical and maternity services were submitted to, and denied by, the Insurance Carrier because the Employer had not extended the Employee's eligibility for coverage beyond April 30, 1981.

### Dispute

Is the Employer required to pay the Employee's insurance premium for the period from March 27, 1981 through April 30, 1981?

Is the Employer required to pay the obstetrical and maternity charges incurred by the Employee's spouse and infant in June 1981?

### Position of the Parties

Position of the Employee: The Employer should be required to pay the premiums for the laid-off Employee from May 1980 through May 1981. Additionally, under Article III, A (1) (h) and (3) (6) of the Employer's Plan, maternity and obstetrical charges should be provided because the pregnancy commenced in September 1980, which was after the date of the Employee's eligibility for benefits under the Employer's Plan.

Position of the Employer: First, the Employee was eligible for benefit coverage only through April 30, 1981. His wife gave birth on June 18, 1981, at which time the Employee was not employed by the Employer. Therefore, according to Article III. A (10) (a) 2 (ii) of the Employer's Plan, benefits are not payable under the Plan for services rendered after the termination of the Employer's coverage. Second, although the Employee was eligible for coverage through April 1981, pursuant to Article III. E (1) (d) of the Employer's Plan, he is not entitled to coverage beyond April 30, 1981. The fact that an economic strike occurred on March 27, 1981 in no way extends the maximum period for which the Employee was eligible. Further, since the Employee was an active employee for purposes of continuation of coverage, he was required, under Article III. (2), to pay for any coverage for which he was eligible during the strike. Therefore, the Employee's insurance coverage was properly terminated on April 30, 1981, benefits are not payable for any services rendered after that date, and the Employee must pay for the coverage for which he was eligible during the strike.

### Pertinent Provisions

- Article III, Section E (1) (a) and (d) of the Employer's Plan provides as follows:

- (1) (a) If an Employee ceases work because of layoff, continuation of health, vision, life and accidental death and dismemberment insurance coverage is as follows:

Number of Hours Worked for the Employer in the 24 Calendar Month <u>Period Prior to the Date Last Worked</u>	Period of Coverage Continuation from the <u>Date Last Worked</u>
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2,000 or more hours	Balance of month plus 12 months
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500 or more but less than 200 hours	Balance of month plus 6 months
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less than 500 hours	30 days
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- (d) In no event shall any combination of the provisions (a), (b), or (c) above result in continuation of coverage beyond the balance of the month plus 12 months from the date last worked.

- Article III. Section A (10) (a) 2 (ii) of the Employer's Plan provides as follows:

In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following: (ii) Services rendered subsequent to the period after which a Beneficiary is no longer eligible for benefits under the Plan.

- Article III. Section E (2) of the Employer's Plan provides as follows:

In the event of an economic strike at the expiration of the 1978 Bituminous Coal Wage Agreement, the Employer will advance the premiums for its health, vision care, and life and accidental death and dismemberment insurance coverage for the first 30 days of such strike. Such advanced premiums shall be repaid to the Employer by such Employees through a check-off deduction upon their return to work. Should such a strike continue beyond 30 days, the Union or such Employees may elect to pay premiums themselves.

- Article III. Section A (1) (h) of the Employer's Plan provides, in part, as follows:

Benefits are provided for a female Beneficiary who is confined in a hospital for pregnancy, provided such pregnancy commenced on or after the date of the Beneficiary's eligibility for benefits under this Plan.

- Article III. Section A (3) (c) of the Employer's Plan provides, in part, as follows:

Benefits are provided for a female Beneficiary for obstetrical delivery services (including pre- and post-natal care) by a physician provided the pregnancy commenced on or after the date of the Beneficiary's eligibility for benefits under this plan.

Discussion

Under Article III. E(1)(a) of the Employer's Plan, the Employee was eligible for continuation of coverage by the Employer from April 1980 through April 30, 1981, based on the fact that he had worked more than 2,000 hours in the 24 months prior to his last work date. However, this provision must be considered in conjunction with Article III. E (2). Article III. E (2) requires the Employer to advance premiums for the first 30 days of an economic strike, but requires all Employees to reimburse the Employer for such premiums upon their return to work. In addition, if the strike continues beyond the 30 days, the Union or the Employees may pay premiums themselves. Under this provision, the Employer is required to advance premiums for the first month, but is not required to pay for health benefits for any Employee after the expiration of the 1978 Bituminous Coal Wage Agreement during an economic strike.

Here, the 1978 Bituminous Coal Wage Agreement expired on March 27, 1981, and an economic strike commenced. The strike lasted until June 6, 1981. Therefore, the Employer was not required to pay for health benefits for the Employee from March 27, 1981 through April 30, 1981.

The Employee claims that he is eligible for benefits for the expenses incurred by his spouse in June 1981, because his spouse's pregnancy commenced after the date of his eligibility under the Employer's Plan. These provisions, however, must be considered in conjunction with Article III, E(1)(d), which states that in no event shall continuation of coverage be extended beyond the balance of the month plus 12 months from the date last worked, and Article III, A(10)(a)(2) (ii), which states that services rendered subsequent to the period after which a Beneficiary is no longer eligible for benefits, are executed from coverage. Therefore, even though the spouse's pregnancy commenced during the Employee's period of eligibility, the Employee would not be eligible for benefits for services rendered after April 30, 1981, the date his continuation of coverage expired.

Although the Employee's continuation of coverage expired on April 30, 1981, a question is raised as to whether the Employee is entitled to the benefits because the Employer informed the Employee that he could extend his coverage through June 1981, by remitting payment for the June premium. Under the exemption granted to the Trustees by the Department of Labor, the Trustees may only resolve disputes concerning questions of eligibility and the nature of benefits under the terms of the Employer's Plan. Therefore, the Trustees may not resolve this issue.

Opinion of the Trustees

The Trustees are of the opinion that under the terms of the Employer's Plan, the Employer is not required to pay the obstetrical and maternity charges incurred by the Employee's spouse and infant in June 1981.