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## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer A  
ROD Case No: 81-47, August 31, 1982

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 ("UMWA") 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 and other non-pension benefit coverage for a Pensioner by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

### Background Facts

The Pensioner, who was born June 1, 1910, worked for Employer A under several different company names. Each company was a successor to the former. The Pensioner retired on May 31, 1978, when the mine where he was working closed. He was credited with 20 1/4 years of service under the UMWA 1974 Pension Plan, and his pension was approved, effective June 1, 1978.

Employer A began mining coal for Employer B at another mine during December 1978, and Employer B began to provide health and other non-pension benefit coverage for the Employees and Pensioners of Employer A. This arrangement continued until some time after Employer A ceased to mine coal for Employer B, on or about March 26, 1981. The Pensioner's benefit coverage ceased effective July 1, 1981.

Although Employer A is mining coal in another state, he has not provided the Pensioner with health and other non-pension benefit coverage since July 1, 1981.

### Dispute

Is Employer A responsible for the provision of health and other non-pension benefit coverage for the Pensioner and his dependents?

### Positions of Parties

Position of Pensioner's Representative: He inquires as to which Employer is responsible to provide the benefit coverage.

Position of Employer: Employer A has not replied to our correspondence.

Pertinent Provisions

Article XX. Section (c) (3) (i) of the National Bituminous Coal Wage Agreement of 1981 which provides:

Each signatory Employer shall establish and maintain an Employee benefit plan to provide, implemented through an insurance carrier(s), health and other non-pension benefits for its Employees covered by this Agreement as well as pensioners, under the 1974 Pension Plan and Trust, whose last signatory classified employment was with such Employer. The benefits provided by the Employer to its eligible Participants pursuant to such plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans. Such plans shall also include that each signatory Employer continue to make the death benefit payments in pay status as of December 5, 1977, for deceased Employees and Pensioners under the 1974 Pension Plan whose last signatory classified employment was with such Employer, in the same manner and in the same amounts as previously provided for in the 1974 Benefit Plan and Trust. The Plans established pursuant to this subsection are incorporated by reference and made a part of this Agreement, and the terms and conditions under which the health and other non-pension benefits will be provided under such plans are as to be set forth in such plans.

Article I. (5) of the Employer's Benefit Plan, as amended in 1981, which provides:

- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service or, (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan.

Article II. B. (1) of the Employer's Benefit Plan, as amended in 1981, which provides:

B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows:

- (1) Any Pensioner who is not again employed in classified signatory employment subsequent to

- (a) such Pensioner's initial date of retirement under the 1974 Pension Plan,  
and
- (b) June 7, 1981, shall be eligible for coverage as a Pensioner under, and  
subject to all other provisions of this Plan...

Discussion

Under Article II. B. of Employer A's Benefit Plan, Employer A is required to provide benefits coverage to pensioners whose last signatory classified employment was with Employer A. The Pensioner in this case satisfies the definition of pensioner under Employer A's Benefit Plan, and the Pensioner's last signatory classified employment was with Employer A. Therefore, under the terms of the Employer's Plan, Employer A is responsible for providing benefits coverage for the Pensioner and his dependents.

Opinion of the Trustees

It is the opinion of the Trustees that Employer A is responsible for the provision of health and other non-pension benefit coverage for the Pensioner and his dependents, effective July 1, 1981.