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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-356 - December 19, 1983

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 benefits coverage for a laid-off Employee by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

### Background

The Complainant was employed by the Respondent for more than 2,000 hours in the twenty-four (24) consecutive calendar month period immediately prior to his layoff on October 22, 1982. Following his layoff, the Complainant failed to submit a standardized mine panel form as required by the National Bituminous Coal Wage Agreement of 1981.

On January 1, 1983, the Respondent terminated the Complainant's employment and canceled his health benefits coverage. The reason stated was the Complainant's failure to return his mine panel form.

### Dispute

Is the Respondent responsible for the provision of additional benefits coverage for the Complainant based on the number of hours he worked for the Respondent prior to his last date worked?

### Position of the Parties

Position of the Complainant: The Complainant feels that he has earned continuation of coverage from the Respondent based on his hours worked.

Position of Respondent: The Complainant had not submitted a timely panel form and, therefore, was terminated. This ended his entitlement to all contractual benefits.

#### Pertinent Provisions

Article I (1), (2) and (4) of the Employer's Benefit Plan provide:

#### Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (coal company)
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1981, as amended from time to time and any successor agreement....
- (4) "Employee" shall mean a person working in a classified job for the Employer, eligible to receive benefits hereunder.

Article III.D.(1) (a) and (e) of the Employer's Benefit Plan provide:

#### Article III - Benefits

#### D. General Provisions

- (1) Continuation of Coverage
  - (a) Layoff

If an Employee ceases work because of layoff, continuation of health, life and accidental death and dismemberment insurance coverage is as follows:

Numbers of Hours Worked for the  
Employer-in the 24 Consecutive  
Calendar Month Period Immediately  
Prior to the Employee's Date Last  
Worked

Period of Coverage Continuation  
from the Date Last Worked

2,000 or more hours

Balance of month plus 12 months

500 or more but less than

2,000 hours

Balance of month plus 6 months

Less than 500 hours

30 days

(e) Quit or Discharge

If an Employee quits or is discharged, health, life and accidental death and dismemberment insurance coverage will terminate as of the date last worked.

Article XVII, Section (c) of the National Bituminous Coal Wage Agreement of 1981 provides:

(c) Layoff Procedure

In all cases where the working force is to be reduced or realigned management shall meet with the mine committee at least 24 hours in advance and review the available jobs and the individuals to be laid off, retained or realigned.

Within five (5) days after an Employee is notified that he is to be laid off, he must fill out a standardized form and submit it to mine management. On this form, the laid-off Employee shall list: (1) his years of service at the mine; (2) his years of service with the Employer; (3) his previous mining experience with other Employers and the years of service with each; and (4) the jobs he is able to perform and for which he wishes to be recalled. Additionally, the Employee may also list, on the standardized form, (5) the mines of his Employer within the UMWA district on whose panel he wishes his name to be placed; (6) his choice of mines of his Employer located in one additional geographically contiguous UMWA district on whose panel he wishes his name to be placed.

Upon receipt of the completed form, the Employer shall within seven calendar days, distribute a copy of the completed form to the Recording Secretary of the Employee's local union and to the respective panel custodians of all mines listed by the Employee at mines where he wishes his name to be placed on the panel in accordance with the provisions of this section.

Discussion

Under Article III D. of the Employer's Benefit Plan, the amount of continuation of benefits coverage provided to a laid-off miner is based on the number of hours worked for the Employer during the twenty-four month period immediately prior to his last date worked. Where, as here, the right to and the amount of a benefit are based on past service, the benefit is considered an accrued benefit. An accrued benefit may only be withheld by an Employer on the basis of express language in the benefit contract specifying the conditions under which the benefit will be forfeited.

The Respondent claims that an Employee on layoff who fails to submit a panel form within the time frame required in the seniority provisions of Article XVII of the 1981 Wage Agreement forfeits his right to continuation of health benefits coverage. Neither the Employer's Benefit Plan nor the 1981 Wage Agreement, however, expressly provides that failure to submit a mine panel form within the required time period will result in the termination of continuation of benefit coverage. Therefore, the Respondent improperly terminated the Complainant's benefits coverage.

Opinion of Trustees

It is the opinion of the Trustees that the Respondent is responsible for the provision of benefits coverage for the Complainant for the period specified in Article III.D.(1) (a).