

OPINION OF TRUSTEES

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In Re

Complainant: Surviving Spouse  
Respondent: Employer  
ROD Case No: 81-371 - February 27, 1987

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 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 payment of a life insurance benefit and the provision of health benefits coverage for the surviving spouse of an Employee by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Complainant's late husband had worked for the Respondent from February 3, 1972 through March 26, 1981. During the 24 consecutive calendar month period immediately prior to his date last worked, the Employee had worked more than 500, but less than 2,000, hours.

The Employee was laid off on May 21, 1981, after the Respondent closed the mine at which the Employee had last worked. The Respondent provided the Employee with continuation of benefits coverage from the date it signed the National Bituminous Coal Wage Agreement of 1981 through September 30, 1981. The Employee died as the result of a heart attack on February 14, 1982, at age 50. The Respondent did not provide the Complainant with a life insurance benefit of health benefits coverage after the death of the Employee.

Dispute

Is the Respondent responsible for the payment of a life insurance benefit and the provision of health benefits coverage for the Complainant?

Positions of the Parties

Position of the Complainant's Representative: The Employee was constructively eligible for Sickness and Accident benefits until October 1, 1981, which would amount to approximately 960 additional hours worked, for the purposes of establishing continuation of coverage. These

Sickness and Accident hours, when added to his actual hours worked, total more than 2,000 hours and would have permitted the Complainant to be eligible for widow's benefits as the Employee's surviving spouse.

Position of the Respondent: The Employee was not off from work due to disability. He had been laid-off and received benefits coverage is provided by Article III D. 1. (a) of the Employer's Benefit Plan. The employee was not eligible for benefits coverage on the date of his death. Therefore, the Complainant is not eligible to receive a life insurance payment nor is she eligible for health benefits coverage.

#### Pertinent References

Article I. (1), (2), (4) and (7) 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.
5. "Dependent" shall mean any person described in Section D of Article II hereof.

Article II. A. (2) and (3), D. (1), and E. (2) and (3) of the Employer's Benefit Plan provide:

#### Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

#### A. Active Employees

Benefits under Article II shall be provided to any Employee

- (2) is on layoff or disabled from the Employer and had continuing eligibility as of the effective date of the Wage Agreement for coverage under the 1978 Employee's Benefit Plan ("prior plan") a laid-off or disabled

employee. Coverage for such laid-off or disabled Employees shall not continue beyond the date when they would no longer have been eligible for such coverage under the provisions of the prior Plan.

- (3) Except as provided in Paragraph (2) above, any Employee of the Employer who is not actively at work\* for the Employer on the effective date of the Wage Agreement will not be eligible for coverage under the Plan until he returns to active employment with the Employer.

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\* Actively at work"includes an Employee who was actively at work on March 26, 1981, and who returns to active work with the Employer within two weeks after the effective date of the Wage Agreement.

Any Employee of the Employer who as of March 26, 1981, was eligible for benefits under the prior Plan who is not scheduled to work within two weeks after the effective date of the Wage Agreement because of the lack of work, such an Employee will, for purposes of this, Plan, be considered eligible for coverage under this Plan as of the effective date of the Wage Agreement but as an Employee on layoff as of such date,

D. Eligible Dependents

Health benefits under Article III shall be provided to the following members of the family of any Employee, Pensioner, or disabled Employee receiving health benefits pursuant to paragraphs A, B, or C of this Article II:

- (1) A spouse who is living with or being supported by an eligible Employee or Pensioner;

E. Surviving Spouse and Dependents of Deceased Employees or Pensioners

Health Benefits under Article III shall be provided to any unmarried surviving spouse (who was living with or being supported by the Employee or Pensioner immediately prior to the Employee's or Pensioner's death) and (ii) such spouse's unmarried surviving dependent children as defined in subparagraphs (2) and (5) of paragraph D, of an Employee or pensioner who died:

- (2) under conditions which qualify such spouse for a Surviving Spouse benefit under the 1974 Pension Plan or any successor thereof:

- (3) at a time when such Employee or Pensioner is entitled to receive health Benefits pursuant to paragraph A, B, or C of this Article II, provided that (i) if such Employee or pensioner who died prior to effective date of the Wage

Agreement and the spouse is not eligible for a Surviving Spouse's benefit, then only for the period that the spouse is eligible to receive death benefits in installment payments pursuant to paragraph C of Article III, or (ii) if such Employee or Pensioner died on or after the effective date of the Wage Agreement and the spouse is not eligible for a Surviving Spouse's benefit and life insurance benefits or death benefits are payable in a lump sum, then only for 60 months following the month of death of such Employee or only for 22 months following the month of death of such Pensioner. If life insurance benefits or death benefits are not payable, health benefits shall be provided only to the end of the month in which the Employee or Pensioner died.

Article III. D. 1 (a) and (b) 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 discontinuation insurance coverage is as follows:

Number of Hours Worked for the Employer in the 24 Consecutive Calendar Month Period Immediately Prior to <u>the Employee's Date Last Worked</u>	Period of Coverage Continuation from the date <u>Last Worked</u>
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

(b) Disability

Except as otherwise provided in Article II, section C an Employee ceases work because of disability, the Employee will be eligible to Continue health, life and accidental death and dismemberment insurance coverage while disabled for the greater of (i) the period of eligibility for

Sickness and Accident benefits, or (ii) the period as set forth in the schedule in (a) above,

Question and Answer P,16 provides, in pertinent part:

Subject: PENSION; Sickness and Accident Benefits  
HEALTH BENEFITS; Sickness and Accident Benefits

Reference: Article XI of NBCWA's of 1974 and 1978; (74B) I B, II C(3); (74P) IV B(a), IV B(3) (1978)

- (2) Q. May periods during which a participant received S&A Benefits be included determining total hours worked for the purpose of extending his eligibility for Funds' health benefits based on hours worked during the 24 moth period preceding the participant's last work date?
- A. No. Only hours actually worked may be used in making this determination. Of course a participant is eligible for health benefits while receiving S&A Benefits. Note that in some instances this period may exceed the eligibility period based on hours worked.

#### Discussion

The Employee was laid off May 21, 1981, due to the closing of the Respondent's mine. Evidence in file indicates that the Employee had worked more than 500, but less than 2,000, hours for the Respondent during the 24 consecutive calendar month period immediately prior to his date last worked, March 26, 1981.

The Complainant's representative contends that the Employee was eligible for Sickness and Accident benefits at the time he ceased employment with the Respondent and that his constructive receipt of such benefits should extend the hours he worked for the Respondent. However, there is no evidence in the file to show that the Employee ceased his employment due to a disability. The Employee did not receive Sickness and Accident benefits after his date last worked nor was he eligible therefore, and consequently did not meet the requirements of Article III. D. 1. (b). Even if he had been eligible for health benefits coverage cannot be extended through the use of Sickness and Accident hours.

The Respondent provided benefits coverage for the Employee and his dependents through September 30, 1981, as provided by Article III. D. 1. and, inasmuch as the Employee's death on February 14, 1982 occurred after his eligibility for benefits coverage had terminated, the Complainant is not eligible to receive a life insurance payment nor is she eligible for health benefits coverage under the Employer's Benefit Plan.

Opinion of the Trustees

The Trustees are of the opinion that the Respondent is not responsible for the payment of a life insurance benefit nor for the provision of health benefits coverage for the Complainant.