

OPINION OF TRUSTEES

In Re

Complainant: Disabled Employee
Respondent: Employer
ROD Case No: 81-570 - April 29, 1985

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., 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 benefits coverage for a disabled Employee by the Employer under the terms of the Employer Benefit Plan (Employer Plan). They hereby render their opinion on this matter.

Background Facts

The Complainant was performing classified work for the Respondent until November 19, 1982, when he was injured on the job. The Trustees' records show that he worked more than 2000 hours in the 24 consecutive calendar month period immediately preceding the accident. Since the date of his accident, he has been receiving Workers' Compensation benefits. On November 29, 1983, the Complainant underwent a physical examination requested by the Respondent. Based on the results of this exam, the Complainant was terminated on December 12, 1983, pursuant to Article III(J) of the Wage Agreement and his health benefits coverage was terminated on December 31, 1983. The Complainant has questioned the Respondent's authority to terminate his benefits coverage while he continues to receive temporary total disability benefits under state Worker's Compensation laws. The Respondent has stated that although the Complainant's termination is presently being contested in arbitration, it severed his employment relationship. Nevertheless, in the event an arbitrator overturns the discharge, the Respondent has stated it will provide benefits coverage to the extent required by applicable state law.

With respect to the Complainant's entitlement to benefits coverage under the Employer Plan, however, the Respondent contends that by providing coverage to the Complainant through December 31, 1983, it more than fulfilled its maximum obligation which is limited to the balance of the month in which the Complainant last worked plus twelve months, in this case through November 30, 1983.

Dispute

For what period is the Respondent responsible for providing health benefits coverage for the Complainant?

Position of the Parties

Position of the Complainant: The Respondent is responsible for provision of health benefits coverage for the Complainant while he is receiving Workers' Compensation benefits.

Position of the Respondent: The Respondent is responsible for health benefits coverage for the Complainant through November 30, 1983, under the terms of the Employer Plan.

Pertinent Provisions

Article II! Section (j)(1) and (2) of the National Bituminous Coal Wage Agreement of 1981 provides:

Article III - Health and Safety

Section (j) - Physical Examination

- (1) Physical examination, required as a condition of or in employment, shall not be used other than to determine the physical condition or to contribute to the health and well-being of the Employee or Employees. The retention or displacement of Employees because of physical conditions shall not be used for the purpose of effecting discrimination.
- (2) When a physical examination of a recalled Employee on a panel is conducted, the Employee shall be allowed to return to work at that mine unless he has a physical impairment which constitutes a potential hazard to himself or others.

Article I (1), (2) and (4) of the Employer Benefit Plan provides:

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.

Articles III. D(1)(a) and (b), (d) and (g) of the Employer Benefit Plan provide:

Article III - Benefits

D. General Provisions

(1) Continuation of Coverage

(a) Layoff

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

Number of Hours Worked for the Employer in the 24 Consecutive Calendar Month Period Immediately Prior to Period of Coverage the Employee's Date <u>Last Worked</u>	Continuation from the <u>Date 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, if an Employee ceases work because of disability, the Employee will be eligible to continue health, life and accident death and dismemberment 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 (a) above.

(d) Maximum Continuation of Coverage

In no event shall any combination of the provisions of (a), (b), (c) or (g) above result in continuation of coverage beyond the balance of the month plus 12 months from the date last worked.

(g) Article III(j) - Wage Agreement

An Employee terminated under the provisions of Article III (j) of the Wage Agreement shall not be treated as a quit or discharge for purposes of continuation of coverage. Such Employee shall be entitled to continuation of coverage on the same basis as provided for in paragraph (b) above; provided, however, hours worked and the period of continuation of coverage shall be determined as of the date last worked.

Discussion

Under Article III. D (1) (b) of the Employer Plan, a disabled Employee is entitled to benefits coverage for the greater of a) his period of eligibility for sickness and accident benefits or b) a period based on his hours worked for his Employer. Under Article III. D. (1)(d), this period of coverage cannot extend beyond the balance of the month in which he last worked plus twelve months.

The Complainant was injured on November 19, 1982, while employed in a classified Job for the Respondent, and has since been receiving Workers' Compensation benefits. He therefore qualified to receive continued benefits coverage as a disabled Employee under Article III D. (i) (b) of the Employer Benefit Plan. Because the Complainant worked more than 2000 hours in the 24 month period preceding his accident, the Complainant is entitled to continued benefits coverage for the balance of November 1982, plus 12 months, or through November 30, 1983, in accordance with the schedule provided in Article III. D. (1)(a).

On December 12, 1983, the Complainant was terminated pursuant to Article III (j) of the Wage Agreement. Article III D (1) (g) of the Employer Plan states that such Employees terminated under the provisions of Article III (j) of the Wage Agreement shall be entitled to the continuation of coverage calculated according to the same schedule as that provided in Article III D. (1) (a) of the Plan. Hours worked and the period of continuation of coverage shall be determined as of the date last worked. Although the Respondent voluntarily provided coverage through December 1983, the Complainant last worked on November 19, 1982; therefore, his period of continuation of coverage under the Employer Plan ended on November 30, 1983. Consequently, the Complainant received the maximum amount of time allowed under the Employer Plan for the continuation of benefits coverage.

This opinion should not be construed as addressing any other protections which may be available to the Complainant under state law pertaining to health insurance extensions for disabled Employees.

Opinion of the Trustees

The Respondent is not responsible for the provision of health benefits coverage under the Employer Benefit Plan for the Complainant beyond November 30, 1983.