
OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 81-677 - February 28, 1990

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 benefits for a laid-off Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was laid off by the Respondent, who was signatory to the 1981 National Bituminous Coal Wage Agreement ("1981 Wage Agreement"), in December 1983. On February 29, 1984, the Respondent notified the Complainant that his health benefits coverage would be continued until December 31, 1984.

On September 30, 1984, the Respondent terminated the Complainant's health benefits coverage. On October 1, 1984, the Respondent was struck by the United Mine Workers of America ("UMWA") following the expiration of the 1981 Wage Agreement. No successor agreement between the Respondent and the UMWA has been executed.

The Complainant has submitted unpaid bills for medical services rendered in October 1984. The Complainant stated that he never received notice that his coverage would be terminated or that upon termination he could convert such coverage to an individual policy. The Complainant contends that he incurred the unpaid charges based upon his understanding that coverage would be continued until December 31, 1984.

The Respondent stated that pursuant to ROD 244 it was not obligated to provide health benefits coverage to the Complainant after the expiration of the 1981 Wage Agreement during an economic strike. The Respondent also stated that under Article III D. (2) of the Employer Benefit Plan it was not obligated to advance a 30-day insurance premium for coverage for the Complainant. The Respondent contends that this requirement only applies to Employees and that an Employee as defined by Article I of the Employer Benefit Plan does not include laid-off

Employees. Moreover, because Article III D. (2) requires an Employee to reimburse the Employer for the advanced premium payment when the Employee returns to work, the provision is not applicable to the Complainant who was not recalled after the strike. Finally, the Respondent contends that it had no obligation to notify the Complainant that benefits would terminate upon the expiration of the Wage Agreement.

Dispute

Is the Respondent responsible for continued health benefits coverage for the Complainant and his eligible dependents beyond the expiration of the 1981 Wage Agreement?

Positions of the Parties

Position of the Complainant: The Respondent is responsible for payment of medical charges which were incurred by the Complainant after the expiration of the 1981 Wage Agreement.

Position of the Respondent: The Respondent is not responsible for the Complainant's continued health benefits coverage beyond the expiration of the 1981 Wage Agreement.

Pertinent Provisions

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

Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (Employer's Name).
- (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 II A. (1) and (4) of the Employer 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 III shall be provided to any Employee who:

- (1) is actively at work* for the Employer on the effective date of the Wage Agreement; or...
- (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

Article III D. (1) (a) and (2) of the Employer Benefit Plan provides:

Article III - Benefits

D. General Provisions

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

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

- (2) Advanced Insurance Premiums

In the event of an economic strike at the expiration of the 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 checkoff deduction upon their return to work. Should a strike continue beyond 30 days, the Union or such Employees may elect to pay premiums themselves.

*"Actively at work" includes an Employee of the Employer 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.

Discussion

Under Article III D. (1) (a) of the Employer Benefit Plan, the Employer is required to provide continued benefits coverage to laid-off Employees based upon the number of hours worked in the 24-month period prior to their date last worked. Because the Complainant worked 2,451 hours for the Respondent in the 24-month period prior to layoff in December 1983, he was eligible for continued benefits coverage until December 31, 1984. However, the continuation of such coverage at the expiration of the 1981 Wage Agreement during an economic strike is governed by Article III D. (2) of the Employer Benefit Plan. In ROD 244 (copy enclosed herein), the Trustees concluded that pursuant to Article III D. (2) an Employer is not required "to pay for" benefits coverage for a laid-off Employee after the Wage Agreement expires if there is an economic strike. The Trustees reexamined this issue in ROD 327 (copy enclosed herein) and found that, although an Employer is not required to provide such coverage "at his expense," an Employer is obligated to "advance the insurance premiums" for the first 30 days of the strike and the Employee "is obligated to repay the employer the premiums advanced" upon his return to work.

In this case, the issue is whether the Respondent is responsible for providing health benefits for a laid-off Employee after the expiration of the Wage Agreement, when the Respondent failed to advance the insurance premiums for the first 30 days of an economic strike. The Trustees conclude that under the Wage Agreement the Respondent has promised to maintain the Plan for the first 30 days of a strike following the expiration of the Wage Agreement. The fact that the Complainant in this case did not return to work for the Respondent does not relieve the Respondent of the responsibility for maintaining the Plan. The Respondent's failure to maintain the Plan by not advancing the insurance premiums for the first 30 days of the strike requires that the Respondent provide health benefits for that period.

The Respondent also contends that it was not required to advance insurance premiums for the Complainant under Article III D. (2) because the Complainant was laid off and therefore does not qualify as an Employee as that term is defined by Article I of the Employer Benefit Plan. Eligibility for health benefits under Article III is governed by Article II of the Plan which states in relevant part that benefits "shall be provided to any Employee who (1) is actively at work for the Employer... or (2) is on layoff... as of the effective date of the Wage Agreement..." Thus, the Complainant's status as a laid-off Employee does not preclude employer-provided benefits coverage pursuant to Article III D. (2).

The Respondent was obligated to advance the insurance premiums and maintain the Employer Benefit Plan for the first 30 days of an economic strike following the expiration of the 1981 Wage Agreement. Because the Respondent did not maintain the Plan, it is responsible for the Plan-covered medical costs that the Complainant incurred during the first 30 days of the strike after the expiration of the 1981 Wage Agreement.