

October 21, 1985

(Opinion issued in letter form; name and address deleted)

Re: Opinion of Trustees  
Resolution of Dispute  
Case No. 84-084

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 level of health benefits coverage under the terms of the Employer Benefit Plan.

While employed in a classified position for the Employer, you were laid off on July 7, 1984. Article III D. (1) (a) of the Employer Benefit Plan provides for the continuation of health benefits coverage based upon the number of hours worked during the twenty-four consecutive calendar month period prior to layoff. Inasmuch as you worked more than 2,000 hours during the twenty-four consecutive calendar month period prior to July 7, 1984, you qualified for continuation of benefits coverage through July 31, 1985.

Under Article III D. (1) (f) of the Employer Benefit Plan, health benefits coverage will terminate as of the date of subsequent employment for an Employee who accepts other employment during the period of eligibility for continuation of health benefits coverage by an Employer. If the Employee's subsequent employment should terminate prior to the date the Employee's coverage under Article III D. (1) (a) of the Employer Benefit Plan would have terminated, coverage may be reinstated provided that the Employee notifies the former Employer "within 10 days by certified mail of both the acceptance and termination of such employment...". The Plan states that it is the Employee's obligation to supply the Employer with such information and that "failure to do so will result in permanent termination of coverage."

Information supplied to the Funds in response to this Resolution of Dispute indicates that you accepted employment with the Mashuda Corporation ("Mashuda") on April 23, 1985, approximately three months prior to the termination date of your health benefits coverage under the Employer Benefit Plan. You have stated that you did not notify the Employer of your employment because you were subject to a probationary period and had not, at that time, been confirmed as an active Employee. It is your contention that you were never "fully employed" by Mashuda because your employment was terminated on May 9, 1985, during this probationary period. Therefore, you have asked that the Employer reinstate health benefits coverage for the remainder of the continuation of benefits period from May 10, 1985 through July 31, 1985.

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The Employer has denied responsibility for the reinstatement of your health benefits coverage because it did not receive notification of the acceptance or termination of your employment within 10 days as prescribed by Article III D. (1) (f) of the Employer Benefit Plan.

The issue of the Employer's responsibility to reinstate health benefits coverage for an Employee whose subsequent employment terminates prior to the termination date of the continuation of coverage period has been previously addressed in ROD Number 81-276 (enclosed herein). In their decision, the Trustees stated that if an Employee does not notify the Employer by certified mail within 10 days of both the acceptance and termination of employment, "any continuation of coverage for which he may be eligible from the Employer permanently terminates."

The language of Article III D. (1)(f) of the Employer Benefit Plan does not qualify the term "employment" nor does it distinguish between probationary employment and any other type of employment. Therefore, the Trustees are of the opinion that employment during a probationary period must be considered to be "employment" within the meaning of Article III D. (1)(f) of the Employer Benefit Plan.

Inasmuch as you did not provide notice to the Employer in accordance with Article III D. (1) (f) of the Employer Benefit Plan, the Employer is not responsible for the provision of benefits coverage for the remainder of the continuation of coverage period, from May 10, 1985 through July 31, 1985.

Sincerely,

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Joseph P. Connors, Sr., Chairman

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Paul R. Dean, Trustee

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William B. Jordan, Trustee

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William Miller, Trustee

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Donald E. Pierce, Jr., Trustee