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## OPINION OF TRUSTEES

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### In Re

Complainants: Employee  
Respondent: Employer  
ROD Case No: 84-147 - December 3, 1986

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

### Background Facts

The Complainant worked for the Respondent in a classified position from November 5, 1984 until September 4, 1985, at which time he claims he became disabled as the result of an illness. The Complainant claims that he was unable to return to work due to his disability, and on November 1, 1985 he was laid-off. According to records available to the Funds, the Complainant worked more than 500 hours but less than 2000 hours for the Respondent during the period from November 5, 1984 through September 4, 1985.

The Respondent provided the Complainant with health benefits coverage implemented through New York Life Insurance through October 31, 1985. From November 1, 1985 through November 30, 1985 the Complainant's health benefits coverage was implemented through Income Security Corporation, Inc. The health benefits provided by the Respondent through New York Life Insurance were subject to a \$200 deductible for each family member, to a maximum deductible of \$600 per family, and thereafter were paid up to 100% of the cost of coverage.

The Funds has determined that the Respondent is no longer in business, effective November 30, 1985. The Complainant was advised by letter that the UMWA 1974 Benefit Plan would provide his health benefits coverage pursuant to Article II.E. of the UMWA 1974 Benefit Trust, effective December 1, 1985. Eligibility for such coverage extends only through the period of eligibility previously established under Article III.D. (1)(a) of the Employer Benefit Plan and is subject to the terms and conditions set forth in the UMWA 1974 Benefit Plan and Trust.

The Complainant has submitted unpaid medical invoices for medical services rendered prior to November 1, 1985. The Complainant has stated that the Benefit Plan implemented by the Respondent prior to November 1, 1985 did not provide health benefits coverage at the level prescribed by the terms of the Employer Benefit Plan established pursuant to the National

Bituminous Coal Wage Agreement of 1984. The Complainant asks that the Respondent be found responsible for the provision of health benefits coverage at the level prescribed by the terms of the Employer Benefit Plan. The Respondent has failed to respond to repeated correspondence from the Funds regarding its position in this dispute.

### Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant at the level prescribed by the Employer Benefit Plan prior to November 1, 1985?

### Positions of the Parties

Position of the Complainant: The Respondent is responsible for provision of health benefits for the Complainant at the level prescribed by the Employer Benefit Plan.

Position of the Respondent: The Respondent has failed to present its position in the dispute.

### Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1984 provides in pertinent part:

(c) 1974 Plans and Trusts

- (3)(i) Each signatory Employer shall establish and maintain an Employee benefit plan to provide, implemented through an insurance carrier(s), health and other non-pension benefits for its Employees covered by this Agreement as well as pensioners, under the 1974 Pension Plan and Trust, whose last signatory classified employment was with such Employer. The benefits provided by the Employer to its eligible Participants pursuant to such plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans.

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 1984, 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. (4) and C.(3) 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:

- (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

C. Disabled Employees

In addition to disabled Pensioners who are receiving pension benefits and are therefore entitled to receive health benefits under paragraph B of this Article II, health benefits under Article III shall be provided to any Employee who:

- (3) Is receiving or would, upon proper application, be eligible to receive Sickness and Accident Benefits pursuant to the Wage Agreement.

Article III A. (8) of the Employer Benefit Plan provides:

#### Article III - benefits

A. Health Benefits

(8) Co-Payments

Certain benefits provided in this Plan shall be subject to the co-payments set forth below and such co-payments shall be the responsibility of the beneficiary. The Plan Administrator shall implement such procedures as deemed appropriate to achieve the intent of these co-payments.

Co-payments for Health Benefits are established as follows:

<u>Benefit</u>	<u>Co-Payment</u>
(a) Physician services as an out-patient as set forth in Section A(2) and physician visits in connection with the benefits set forth in Section A(3), paragraph (c) but only for pre- and post-natal visits if the physician charges separately for such visits in addition to the charge for delivery, and paragraphs (g) through (m), paragraph (n) except inpatient surgery, paragraph (o) and Section A(7) paragraph (f).	Working Group -- \$7.50 per visit up to a maximum of \$150 per 12-month period (*) per family. Non-Working Group, \$5 per visit up to a maximum of \$100 per 12-month period (*) per family.

(b) Prescription drugs and insulin, as set forth in Section A(4) and take-home drugs following a hospital confinement as set forth in Section A(1)(a).

\$5 per prescription or refill up to a \$50 maximum per 12-month period (\*) per family.  
Note: For purposes of this co-payment provision a, prescription or refill shall be deemed to be each 30 days (or fraction thereof) supply.

If an employee is covered under an employee Plan (established pursuant to the NBCWA of 1978) by more than one signatory employer during a 12-month period(\*), the total co-payments made by the employee during such period shall be counted toward the 12-month(\*) maximum.

\*The 12-month periods shall begin on the following dates: March 27, 1984; March 27, 1985; March 27, 1987.

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

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 Immedi-  
ately Prior to the Employee's Period of Coverage Continuation  
Date Last Worked                      Date Last Worked

2,000 or more hours                      Balance of month plus 12 months

500 or more but less than      Balance of month plus 6 months  
2,000 hours

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 accidental 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 in (a) above.

Discussion

Article XX Section (c)(3)(i) of the 1984 Wage Agreement requires each signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits to its Employees. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such plan shall be guaranteed at levels set forth in such plans. Inasmuch as the Complainant worked in a classified position for the Respondent from November 5, 1984 until September 4, 1985 when he became disabled as the result of an illness, he was eligible for health benefits coverage as an active Employee and continued health benefits coverage as a disabled Employee for the period of eligibility as determined under the terms of the Employer Benefit Plan. The Respondent is responsible for the provision of continued coverage through November 30, 1985.

Article III. A (8) of the Employer Benefit Plan specifies the co-payments which are the responsibility of the beneficiary for medical services and prescriptions. Levels of benefits to be provided to Employees, Pensioners and their dependents and survivors are established through

Opinion of Trustees  
Resolution of Dispute  
Case No. 84-147  
Page 6

collective bargaining and may not be unilaterally changed by an Employer. The Respondent's use of a non-conforming deductible payment is inconsistent with the provisions of the 1984 Wage Agreement and the Employer Benefit Plan.

Opinion of Trustees

The Respondent's use of a substandard health coverage plan is inconsistent with the 1984 Wage Agreement. The Respondent is responsible for the provision of health benefits coverage for the Complainant as an active Employee and disabled Employee through November 30, 1985 at the level specified in the Employer Benefit Plan.