
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-162 - August 14, 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 July 1982 until January 1983, when he was laid off. On August 28, 1985, the Complainant was recalled to work for the Respondent in a classified position. The Complainant has stated that after he was recalled, the Respondent did not provide any health benefits coverage for him until November 1988, and furthermore, that the Benefit Plan implemented by the Respondent at that time 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 ("Wage Agreement") of 1984.

The Complainant has submitted a copy of a bill for vision care services rendered on January 4, 1986, and copies of receipts indicating he paid the bill in full. The Complainant has also submitted receipts for prescription charges incurred between September 24, 1985 and March 26, 1986, also paid in full. The Complainant has stated that all of these claims were submitted to the Respondent, but to date he has received no payment nor any Explanation of Benefits.

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 and his eligible dependents at the level prescribed by the terms of the Employer Benefit Plan?

Positions of the Parties

Position of the Complainant: The Respondent is responsible during the Complainant's period of eligibility for the provision of health benefits coverage for the Complainant and his eligible dependents at the level prescribed by the Employer Benefit Plan.

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

Pertinent Provisions

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

- (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 (coal company).
- (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. (3) of the Employer Benefit Plan provides in pertinent part:

Article II - Eligibility

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

A. Active Employees

- (3) ...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.

Article III A. 4 (a), (8) and (9) of the Employer Benefit Plan provides in pertinent part:

Article III - Benefits

A. Health Benefits

(4) Prescription Drugs

(a) Benefits Provided

Benefits are provided for insulin and prescription drugs (only those drugs which by Federal or State law require a prescription) dispensed by a licensed pharmacist and prescribed by a (i) physician for treatment or control of an illness or a nonoccupational accident or (ii) licensed dentist for treatment following the performance of those oral surgical services set forth in (3)(e).

(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 covered 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-	Working Group -- \$7.80 per visit up to a maximum of \$180 per 12-month period (**) per family. Non-Working Group --

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(J) paragraph (f).

\$5 per visit up to a maximum of \$100 per 12-month period (*) per family.

*Actively at work includes an Employee of the Employer who was actively at work on September 30, 1984, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement,

**The 12-month periods shall begin on the following dates: March 27, 1984; March 27, 1988; March 27, 1986 and March 27, 1987.

Benefit

(5) 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).

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.

Co-Payment

\$8 per prescription or refill up to a \$80 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.

*The 12-month periods shall begin on the following dates: March 27, 1984; March 27, 1985; March 27, 1986 and March 27, 1987.

(9) Vision Care Program

<u>(a) Benefits</u>	<u>Actual Charge Up To Maximum Amount</u>	<u>Frequency Limits</u>
Vision Examination	\$20	Once every 24 months
Per Lens (Maximum = 2)		Once every 24 months
- Single Vision	10	
- Bifocal	15	
- Trifocal	20	
- Lenticular	25	
- Contact	18	
Frames	14	Once every 24 months

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 during the term of the Agreement by that Employer at levels set forth in such plans. Inasmuch as the Complainant returned to active employment in a classified position for the Respondent on August 28, 1988, he was eligible for health benefits coverage as an active employee from that date under the terms of the Employer Benefit Plan.

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. Article III A. (9) of the Plan specifies the benefits provided to beneficiaries for vision care services. Levels of benefits to be provided to Employees and their dependents are established through collective bargaining and may not be unilaterally changed by an Employer. The Respondent's failure to provide coverage for prescription drugs and vision care services is inconsistent with the provisions of the 1984 Wage Agreement and the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is responsible for the provision of health benefits coverage for the Complainant and his eligible dependents at the level specified in the Employer Benefit Plan during the Complainant's period of eligibility as determined under the terms of the Employer Benefit Plan.