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OPINION OF TRUSTEES

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In Re

Complainant: Laid-off Employee  
Respondent: Employer  
ROD Case No: 84-215 - December 18, 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 health benefits coverage under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was employed in a classified position by Heather Coal Company, a signatory corporation, until January 17, 1986. On January 17, 1986 Heather Coal Company, the Respondent, ceased operations and laid off its employees. During the 24-month period prior to January 17, 1986 the Complainant worked 918 hours for the Respondent. He was provided health benefits coverage under an 80/20 Blue Cross/Blue Shield health plan until February 10, 1986 when all coverage ceased.

The Funds has obtained information indicating that on May 7, 1986 Heather-Krest Coal Company, Inc. ("Heather-Krest") was formed as the result of the merger of two corporations the Respondent, Heather Coal Company, and Krest Coal Company. In a civil action filed by the Union on behalf of the Employees of Heather-Krest, the United States District Court for the Western District of Virginia ruled that Heather-Krest is bound by the terms of the 1984 Wage Agreement.

The Complainant has submitted unpaid invoices for medical expenses incurred during his period of employment with the Respondent and following his layoff. The Complainant claims that the Respondent is responsible for the provision of his health benefits coverage during his period of employment at the level set forth under Article III of the Employer Benefit Plan, and for continued health benefits coverage as a laid-off Employee.

Dispute

Whether the Respondent is responsible for the provision of health benefits for the Complainant as an Employee and laid-off Employee for the period and level prescribed by the Employer Benefit Plan.

#### Positions of the Parties

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

Position of the Respondent: The Respondent has not responded to repeated correspondence by Funds' staff requesting 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:

(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 (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. (4) of the Employer Benefit Plan provides:

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.

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

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:

<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

Discussion

Article XX Section (c)(3)(i) of the 1984 Wage Agreement requires each signatory Employer to establish and maintain an Employee 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 plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans. Article II A. (4) of the Employer Benefit Plan provides for health benefits for a new Employee from the first day worked with the Employer. In addition, Article III. D. (1) (a) of the Employer Benefit Plan provides for continued benefits coverage for an Employee who ceases work because of layoff. Under the provisions of Article III. D. (1)(a), an Employee's eligibility for continuation of coverage is based on the total number of hours worked for the Employer during the 24-calendar month period prior to his last date worked.

The Complainant was provided health benefits through February 10, 1986 under an 80/20 health plan. Inasmuch as the Complainant was an Employee of the Respondent from August 1985 until January 17, 1986, he was entitled to health benefits provided by the Employer Benefit Plan from the Respondent during that period. In addition, under Article III. D. (1)(a), the Complainant, who worked 918 hours for the Respondent during the 24-month period prior to being laid off on January 17, 1986, was entitled to continued health benefits through July 1986. The Respondent's use of a non-conforming 80/20 health coverage plan through February 10, 1986 is inconsistent with the provisions of the 1984 Wage Agreement and the Employer Benefit Plan. The level of benefits to be provided to Employees, Pensioners and their dependents and survivors are established through collective bargaining and may not be unilaterally changed by an Employer.

Thus, the Respondent, Heather Coal Company, was responsible for the provision of health benefits for the Complainant for the period of his employment with the Respondent and for the six-month period following the Complainant's layoff.

Heather Coal and Krest Coal merged on or about May 7, 1986 to form Heather-Krest Coal Company. Under Virginia's Corporation law, upon merger, the separate existence of each merged corporation ceases. The resulting corporation assumes all liabilities of each corporation party to the merger. Therefore, Heather-Krest, as the resulting corporation, must provide to the Complainant those benefits for which Heather Coal Company was responsible.

#### Opinion of the Trustees

Heather-Krest is responsible for the provision of health benefits for the Complainant at the level specified in the Employer Benefit Plan from August 1985 through July 31, 1986.