
OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 84-252 - November 24, 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 provision of health benefits coverage for an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant claims that he worked for the Respondent in a classified position from August 12, 1984 until May 1, 1986, when he was laid off. The Complainant was injured in an auto accident on June 30, 1985. As a result of that accident, he was hospitalized and was unable to return to work until the latter part of August 1985. The Complainant has stated that he received Sickness and Accident benefits during the period he was unable to work. He has also stated that his auto insurance covered all of the medical expenses related to his accident up to the maximum coverage of \$10,000 as stipulated in his policy. The Complainant contends that the Respondent is responsible for the remaining charges totaling approximately \$1,500. The Complainant has submitted invoices which indicate that unpaid charges totalling approximately \$1,300 were incurred between July 1, 1985 and September 9, 1985.

The Complainant has stated that although the Respondent previously agreed to pay the outstanding charges related to his accident, the providers have notified the Complainant that the bills have not been paid. The Respondent has failed to respond to repeated correspondence from the Funds regarding its position in this dispute.

Dispute

Is the Respondent responsible for payment of the Complainant's outstanding medical bills, which were not covered by the Complainant's auto insurance policy?

Positions of the Parties

Position of the Complainant: The Respondent is responsible for payment of the Complainant's outstanding medical bills which were incurred during his period of eligibility under the terms of the Employer Benefit Plan, and which exceeded the personal injury coverage provided by his auto insurance policy.

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:

(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) 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

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

Article III A. (10) (e) and D. (1) (a) and (b) of the Employer Benefit Plan provide:

Article III - Benefits

A. Health Benefits

(10) General Provisions

(e) Subrogation

The Plan does not assume primary responsibility for covered medical expenses which another party is obligated to pay or which an insurance policy or other medical plan covers. Where there is a dispute between the carriers, the Plan shall, subject to provisions 1 and 2 immediately below, pay for such covered expenses but only as a convenience to the Beneficiary eligible for benefits under the Plan and only upon receipt of an appropriate indemnification or subrogation agreement; but the primary and ultimate responsibility for payment shall remain with the other party or carrier. Obligations to pay benefits on behalf of any Beneficiary shall be conditioned:

1. upon such Beneficiary taking all steps necessary or desirable to recover the costs thereof from any third party who may be obligated therefore, and
2. upon such Beneficiary executing such documents as are reasonably required by the Plan Administrator, including, but not limited to, an assignment of rights to receive such third party payments, in order to protect and perfect the Plan's right to reimbursement from any such third party.

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:

<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

(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 during the term of the Agreement by that Employer at levels set forth in such plans.

Article II A. of the Employer Benefit Plan provides health benefits coverage to employees working in classified jobs for a signatory employer. Article III. D (1)(b) of the Employer Benefit Plan provides continued benefits coverage for an Employee who ceases work because of disability for the greater of (i) the period of eligibility for Sickness and Accident benefits, or (ii) the period based on the number of hours worked for the Employer in the 24-month period prior to his last date worked. Funds' records indicate that the Complainant worked 535 hours for the

Respondent during the 24-month period prior to his accident. Accordingly, the Complainant was entitled to continued benefits coverage while disabled for the balance of the month plus six months beyond his last date worked. However, inasmuch as the Complainant was able to return to work for the Respondent in the latter part of August 1985, his eligibility for health benefits coverage as an active Employee resumed, in accordance with Article II. A. of the Employer Benefit Plan. Therefore, the Complainant was entitled to health benefits coverage as either a disabled Employee or an Active Employee throughout the period when the bills in question were incurred, from July 1, 1985 to September 9, 1985.

Under Article III A. (10) (e) of the Employer Benefit Plan, the Plan does not assume primary responsibility for medical expenses covered by an insurance policy or other medical plan. Inasmuch as the Complainant's auto insurance policy has paid the maximum amount of covered medical expenses, the Respondent therefore is responsible for the remaining costs of covered medical services related to the Complainant's auto accident of June 30, 1985.

Opinion of the Trustees

The Respondent is responsible for payment of covered medical expenses which were incurred by the Complainant as a result of his auto accident on June 30, 1988, to the extent that benefits were not available under the Complainant's auto insurance policy to pay these expenses.