
OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 84-326 - March 20, 1987

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 Krest Coal Company, a signatory corporation, from July 1984 until August 15, 1985, when he was laid off. He worked for Heather Coal Company, also a signatory corporation, from August 16, 1985 until January 17, 1986. On January 17, 1986, Heather Coal Company ceased operations and laid off its Employees. During the 24-month period prior to January 17, 1986, the Complainant worked 818 hours for Heather Coal Company. He was provided health benefits coverage under an 80/20 Blue Cross/Blue Shield health plan until March 20, 1986, when all coverage ceased.

The Complainant claims that he was rehired by Krest Coal Company on May 2, 1986, and that he worked for Krest Coal Company through May 7, 1986. The Funds has received information indicating that on May 7, 1986, Heather-Krest Coal Company, Inc. ("Heather-Krest"), the Respondent, was formed as the result of the merger of two corporations - 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 as the result of the merger Heather-Krest is bound by the terms of the 1984 Wage Agreement. The Complainant claims that he was employed by Heather-Krest from May 8, 1986 through June 23, 1986, when he was laid off. His last day of work for Heather-Krest was June 20, 1986. During the 24-month period prior to June 20, 1986, the Complainant worked at least a total of 2,236 hours for Krest Coal Company. The hours worked by the Complainant for Heather-Krest were not reported to the Trustees.

The Complainant has submitted copies of unpaid invoices for medical expenses incurred by the Complainant and his eligible dependents during his period of employment with Heather Coal Company and as a laid-off Employee of Heather Coal Company. In addition, the Complainant has submitted unpaid invoices for medical expenses incurred during his period of employment

with Krest Coal Company and Heather-Krest, and as a laid-off Employee of Heather-Krest. The Complainant asks that the Respondent be found responsible for the provision of health benefits coverage during his period of eligibility and at the level prescribed by the Employer Benefit Plan.

Dispute

Whether the Respondent is responsible for the provision of health benefits coverage during the Complainant's period of eligibility at the level prescribed by the Employer Benefit Plan.

Positions of the Parties

Position of the Complainant: The Respondent is responsible for the provision of health benefits coverage for the Complainant and his eligible dependents during the period of his eligibility and at the 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:

- (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 D. (1) (a) and (f) of the Employer Benefit Plan provide in pertinent part:

Article III - Benefits

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

(f) Other Employment

Notwithstanding the foregoing, in the event an Employee accepts employment during a period of continued coverage under paragraph (a), health,

life and accidental death and dismemberment insurance coverage will terminate as of the date of such employment.

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 plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans. Article II A. of the Employer Benefit Plan provides for health benefits for an active Employee who is working in a classified job for a signatory 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-month period prior to his last date worked. Article III. D. (1)(f) provides that such continuation of coverage will be terminated if a laid-off Employee accepts other employment.

Inasmuch as the Complainant was an active Employee of Krest Coal Company from July 1984 until August 15, 1985 and from May 2, 1986 through May 7, 1986, Krest Coal Company was responsible for the provision of his health benefits coverage during those periods. Inasmuch as the Complainant worked 818 hours for Heather Coal Company between August 16, 1985 and January 17, 1986, when he was laid off, Heather Coal Company was responsible for the provision of his health benefits coverage during that period. In addition, Heather Coal Company was responsible for the continuation of the Complainant's health benefits pursuant to Article III D. (1) from January 17, 1986 until May 2, 1986 when the Complainant accepted employment with Krest Coal Company.

Heather Coal Company provided the Complainant health benefits under an 80/20 health plan through March 20, 1986. As a result of Heather Coal Company's use of a non-conforming 80/20 health coverage plan, the Complainant has unpaid medical bills for services rendered when this coverage was in effect. The use of such a plan is inconsistent with the provisions of the 1984 Wage Agreement and the Employer Benefit Plan. The levels of benefits to be provided under the Plan are established through collective bargaining and may not be unilaterally changed by an Employer.

On May 7, 1986, Krest Coal Company and Heather Coal Company merged to form Heather-Krest Coal Company, the Respondent. Under Virginia's corporation law, upon merger, the separate existence of each merged corporation ceases. The resulting corporation assumes all obligations of each corporation party to the merger. Therefore, Heather, Krest, as the resulting corporation, is responsible for providing health benefits coverage at the level prescribed by the Employer Benefit Plan during the Complainant's employment with Krest Coal Company and Heather Coal Company and during the Complainant's eligibility for continued benefits coverage as a laid-off Employee of Heather Coal Company.

Inasmuch as the Complainant was an active Employee of the Respondent from May 8, 1986 until June 23, 1986, the Respondent is responsible for the provision of his health benefits coverage during that period. The Complainant was laid off by the Respondent on June 23, 1986, and under Article 111 D. (1)(a) is entitled to continued health benefits coverage based on his hours worked for his employer in the 24-month period prior to his date last worked. At the time of the May 7, 1986 merger, the Complainant worked for Krest Coal Company. Because Krest Coal Company was merged into Heather-Krest, which assumed all of its obligations, Krest Coal Company and Heather-Krest may be considered one Employer for purposes of the continuation of coverage provisions of the Plan. The Complainant worked over 2,000 hours for Heather-Krest and Krest Coal Company in the 24-month period prior to his last date worked and he is thus entitled to continued coverage from Heather-Krest through June 30, 1987.

Opinion of the Trustees

The Respondent is responsible for the provision of health benefits for the Complainant and his eligible dependents from July 1984 through June 30, 1987 at the level prescribed by the Employer Benefit Plan.