

OPINION OF TRUSTEES

In Re

Complainants: Laid-off Employees
Respondents: Employers
ROD Case No: 84-373 - June 10, 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 the provision of benefits coverage for laid-off Employees under the terms of the Employer Benefit Plan.

Background Facts

The Complainants performed classified work for Consolidation Coal Company (Consol) at its Maitland Mine until April 1983, when they were laid off. The Complainants were subsequently employed in classified jobs by Consol at its Amonate Mine.

Consol ceased all production at the Maitland mine in October 1984, and U.S. Steel Mining Company, Inc. (USM) obtained coal rights, surface facilities and slope equipment at that mine on or about March 1, 1985. On April 26, 1985, USM recalled some Employees, the Complainants included, from the Maitland panel. The Complainants ceased working at Consol's Amonate Mine in order to return to work at Maitland for USM.

The Complainants began working in classified jobs for USM on or after April 26, 1985 and worked until May 24, 1986, when they were laid off. Information reported to the Funds by USM indicates that one of the Complainants worked less than 500 hours for USM during that period; each of the other Complainants worked 500 or more, but less than 2,000 hours for USM during that period. USM provided continued benefits coverage for the Complainants for a maximum period of 6 months beyond May 1986, based on the number of hours worked for USM during the 24-month period prior to layoff.

The representative for the Complainants contends that USM is the successor to Consol and therefore, that the Complainants are entitled to continued benefits coverage for twelve months beyond May 1986, based on their combined hours worked at any Consol mine and at USM during the 24-month period prior to layoff by USM. Hours reported to the Funds by Consol indicate that each of the Complainants worked at least 219 hours but less than 2,000 hours for

Consol at Amonate during that period. The representative asks whether USM or Consol is responsible for providing an additional six months of continued coverage for the Complainants.

A representative for USM has stated that USM can consider hours worked for Consol at Maitland as hours worked for USM in calculating the period of continued benefits coverage for certain laid-off Employees of USM. No work hours were reported for the Complainants by Consol at Maitland during the 24-month period prior to layoff by USM. The representative for USM has indicated that hours worked by the Complainants at other Consol operations will not be considered as hours worked for USM in calculating a period of continued benefits coverage.

A representative for Consol has indicated that the Complainants voluntarily terminated their employment at Consol's Amonate Mine when they were recalled by USM to the Maitland Mine. Therefore, Consol maintains that its responsibility for providing the Complainants' benefits ceased as of the date they last worked for Consol.

Dispute

Whether the Complainants are entitled to a period of continued benefits coverage based on their combined hours worked for Consol and USM during the 24-month period prior to layoff by USM.

Positions of the Parties

Position of the Complainants: The Complainants are entitled to continued benefits coverage for the balance of May 1986 plus twelve months based on their combined hours worked for Consol and USM during the 24-month period prior to layoff on May 24, 1986.

Position of the Respondents: Consol maintains that its obligation to provide health benefits coverage for the Complainants ceased when the Complainants terminated their employment at Consol's Amonate Mine and accepted employment with USM at the Maitland Mine in April 1985.

USM indicates that it has provided the Complainants with a period of continued benefits coverage based on their hours worked for Consol and USM at the Maitland Mine during the 24-month period prior to layoff by USM. USM contends that hours worked at any other Consol operation cannot be considered as hours worked for USM in calculating a period of continued benefits coverage.

Pertinent Provisions

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. (1) and (4) 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:

- (1) is actively at work* for the Employer on the effective date of the Wage Agreement; or
- (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

*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.

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

Article III- Benefits

D. General Provisions

- (1) Continuation of Coverage
 - (a) Laid-off

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

(e) Quit or Discharge

If an Employee quits or is discharged, health, life and accidental death and dismemberment insurance coverage will terminate as of the date last worked.

Discussion

Under Article III. D. (1) (e) of the Employer Benefit Plan, if an Employee quits his employment, his health benefits coverage is terminated as of the date he last worked for the Employer. Inasmuch as the Complainants quit their employment with Consol to accept employment by USM, Consol is not responsible for providing benefits coverage for the Complainants beyond the date they last worked for Consol.

Article III D. (1) (a) of the Plan provides continued benefits coverage for a laid-off Employee for a defined period based on the number of hours worked for the Employer during the 24-month period immediately prior to the date last worked. The issue of an Employer's responsibility to provide continued health benefits coverage to a laid-off Employee based on hours worked by such Employee for a separate Employer has been previously addressed in Resolutions of Dispute 81-338 and 81-621 (copies enclosed herein). The Trustees concluded in those respective opinions that an Employer is not responsible for providing continued coverage for a laid-off Employee based on hours worked for a separate Employer.

Appropriately, for purposes of applying Article III D.(1)(a) under the particular facts presented here, USM has recognized that hours worked for USM at Maitland would be counted with hours

worked for Consol at Maitland during the 24-month period prior to the last day worked in calculating the Complainants' eligibility for continued coverage. Here, however, the Complainants did not in fact perform any work for Consol at Maitland within the 24-month period prior to their layoff date of May 24, 1986. While the Complainants did work for Consol during that period, such work was at a separate mine, the Amonate Mine. Consistent with ROD's 81-338 and 81-621, USM properly refused to combine those hours with hours worked for USM at Maitland for purposes of Article III D.(1)(a).

Therefore, absent any evidence to the contrary, the Trustees must conclude for these purposes that the Complainants worked for two distinct Employers during the 24-month period prior to their date last worked. Inasmuch as the Complainants were laid off by USM, USM is responsible for providing continued benefits coverage for the Complainants during their individual periods of eligibility based upon their hours worked for USM during the 24-month period prior to the date last worked, May 24, 1986.

Opinion of the Trustees

Applying Article III D.(1)(a) under the particular facts presented here, USM is responsible for providing continued benefits coverage for the Complainants for their individual periods of eligibility based on their hours worked for USM during the 24-month period prior to the date last worked for USM. While, under circumstances such as these, hours worked for Consol at Maitland during this period would also be included for such purposes, the fact is that these Complainants did not so work for Consol at Maitland during the period.