
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-375 - October 27, 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 continuation of health benefits coverage for a laid-off Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was employed in a classified position by the Respondent from December 1984 until April 8, 1986, when he was laid off. Hours reported to the Funds by the Respondent indicate that the Complainant worked 1,354 hours for the Respondent during the 24-month period prior to April 8, 1986.

On May 3, 1986, the Complainant received a letter from the Respondent indicating that his health benefits coverage was terminated, effective April 30, 1986, because he had accepted other employment while on layoff and had failed to notify the Respondent of such employment in accordance with Article III D. (1)(f) of the Employer Benefit Plan. The representative for the Respondent has indicated that this decision was based on information from several sources. The representative acknowledges that the Complainant received unemployment compensation until June 21, 1986. The representative alleges, however, that the Complainant purchased logging equipment prior to his layoff and that he used this equipment as a means of self-employment both before and after his layoff on April 8, 1986. The Respondent claims that the Complainant was selling lumber to Bridgette Trucking Company as early as April 1986. The representative for the Respondent alleges that a witness reported seeing loads of lumber tagged with receipts signed by the Complainant. The witness has declined a request to provide a statement to that effect. The representative for the Respondent has submitted documents indicating that the Complainant was awarded Workers' Compensation Benefits as a result of an injury sustained on June 24, 1986, while he was working for Bridgette Trucking Company. The representative contends that the accident report filed with the Workers' Compensation Fund indicates that the Complainant was working at least 60 days prior to the date of his injury. The Respondent maintains that it properly terminated the Complainant's continued health benefits coverage on April 30, 1986.

The Complainant maintains that at the time his benefits were terminated he was not self-employed or employed by Bridgette Trucking. The Complainant has stated that he received unemployment compensation until about June 23, 1986 when he accepted a job with Bridgette Trucking Company. The Complainant's wife, the President and owner of the company, has stated that company records indicate that the Complainant was hired on June 22, 1986 and his first day of work was June 23, 1986. The Complainant denies the Respondent's allegations that he was employed prior to June 23, 1986. The Complainant states that he worked for Bridgette Trucking only two days before he was injured in the accident on June 24, 1986. Due to his injury, he was unable to return to work for that company. The Complainant states that he did not notify the Respondent in writing of the acceptance and termination of his brief employment with Bridgette Trucking Company. He contends that he was not required to provide such notice since the Plan allows a laid-off Employee ten (10) days to provide notice of other employment, and by then, his employment had ceased.

The Complainant states that he has incurred unpaid medical bills since April 30, 1986; he contends that the Respondent is responsible for payment of those bills because he is entitled to continued benefits coverage as a laid-off Employee from April 8, 1986 through April 30, 1987.

Dispute

Whether the Respondent is responsible for providing continued health benefits coverage for the Complainant beyond April 30, 1986.

Positions of the Parties

Position of the Complainant: The Respondent is responsible for providing continued health benefits coverage for the Complainant through April 30, 1987.

Position of the Respondent: The Respondent is not responsible for providing the Complainant with continued health benefits coverage beyond April 30, 1986, because the Complainant had accepted other employment.

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

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. If, however, such employment subsequently terminates prior to the date the Employee's coverage under paragraph (a) otherwise terminates, such Employee's health, life and accidental death and dismemberment insurance coverage will be reinstated following the later of (i) termination of such employment or (ii) any continued health coverage resulting therefrom, and will continue to the date such coverage under paragraph (a) would have otherwise terminated. It is the obligation of the Employee to notify the Employer within 10 days by certified mail of both the acceptance and termination of such employment; failure to provide such notice will result

in permanent termination of coverage. Nothing in this paragraph shall extend coverage beyond the date determined pursuant to paragraph (a).

Discussion

Article III D. (1)(a) of the Employer Benefit Plan provides continued health benefits coverage for a laid-off Employee based upon the number of hours worked for the Employer during the 24 consecutive calendar month period immediately prior to the Employee's last day worked. Notwithstanding the above, Article III D. (1)(f) of the Plan states that "in the event an Employee accepts employment during a period of continued coverage ... health, life and accidental death and dismemberment coverage will terminate as of the date of such employment." Article III D. (1)(f) further states that it is "the obligation of the Employee to notify the Employer within 10 days by certified mail of both the acceptance, and termination of such employment; failure to provide such notice will result in permanent termination of coverage."

Although the Respondent contends that the Complainant was employed or self-employed during his layoff as early as April 1986, it has failed to provide the Funds with evidence to support this allegation. The Respondent's claim that the Complainant used logging equipment as a means of self-employment has not been documented. The Respondent's claim that the Workers' Compensation accident report indicates that the Complainant was working at least 60 days prior to June 24, 1986 is questionable. Funds' staff have examined the form and find that the information provided thereon is subject to interpretation; the actual date the Complainant accepted employment with Bridgette Trucking is not specified.

The fact that the Complainant received unemployment compensation through June 21, 1986 is not disputed by the Respondent and lends credence to the Complainant's position. The Complainant maintains that following his layoff on April 18, 1986, he did not accept other employment until June 23, 1986. Absent evidence of other employment prior to this date, the Respondent is responsible for providing continued health benefits coverage beyond April 30, 1986 until June 23, 1986, when the Complainant accepted other employment. Although the Complainant has stated that his later employment lasted only two days, the notification requirements of the Plan do not specify a minimum period of other employment. Therefore, in the absence of proper notification, the Complainant's eligibility for continued health benefits coverage ceased as of June 23, 1986, the date he accepted other employment.

Opinion of Trustees

The Respondent is responsible for providing continued health benefits coverage for the Complainant from April 8, 1986 through June 22, 1986.