

OPINION OF TRUSTEES

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In Re

Complainant: Laid-off Employee  
Respondent: Employer  
ROD Case No: 84-625 - July 13, 1988

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 until November 20, 1987, when he was laid off. Funds' records indicate that the Complainant worked over 2,000 hours for the Respondent during the 24-month period prior to November 20, 1987.

The representative for the Complainant states that the Respondent terminated health benefits coverage for the Complainant, effective March 1, 1988. The Respondent contends that it is not obligated to provide continued coverage for the Complainant beyond February 29, 1988, because the Complainant is self-employed and works on a regular basis. To support its position, the Respondent has submitted the Complainant's business card and a statement from a customer indicating that the Complainant had performed contract labor for her on January 25, 1988.

The Complainant maintains that he is not self-employed. His representative therefore contends that the Complainant is eligible for one year of continued coverage, through November 30, 1988, based on the number of hours the Complainant worked for the Respondent.

Dispute

Whether the Respondent is responsible for providing continued health benefits coverage for the Complainant beyond February 29, 1988.

Positions of the Parties

Position of the Complainant: The Respondent is responsible for providing continued health benefits coverage for the Complainant through November 30, 1988.

Position of the Respondent: The Respondent is not responsible for providing the Complainant with continued health benefits coverage beyond February 29, 1988, because the Complainant is self-employed and works on a regular basis.

#### 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:

Number of Hours Worked for  
the Employer in the 24  
Consecutive Calendar Month  
Period Immediately Prior to  
the Employee's Date  
Last Worked

Period of Coverage  
Continuation from the  
Date Last Worked

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. 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."

Although the Respondent alleges that the Complainant is regularly self-employed, it has failed to provide the Funds with sufficient evidence to support this allegation. The customer's statement which the Respondent submitted indicates that the Complainant performed contract labor on one day only -- January 25, 1988. Absent evidence that the Complainant was working on a regular basis, the Trustees conclude that the Complainant's self-employment on January 25, 1988 does not meet the definition of "employment" as discussed in Article III. D. (1)(f). Accordingly, the Respondent is responsible for providing continued health benefits coverage for the Complainant beyond February 29, 1988, consistent with the terms of the Employer Benefit Plan.

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The Respondent is responsible for providing continued health benefits coverage for the Complainant beyond February 29, 1988, consistent with the terms of the Employer Benefit Plan.