
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-141 - November 17, 1989

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 has been employed in a classified position by the Respondent since April 1975. The Respondent was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1984, which expired on January 31, 1988. The Respondent signed an agreement with the United Mine Workers of America ("UMWA") extending the terms of the 1984 Wage Agreement until March 3, 1988. On March 3, 1988, the Union called a selective economic strike against the Respondent. The Respondent advanced the insurance premiums for its Employees' health benefits coverage for the first 30 days of the strike.

On June 14, 1988, the Respondent completed negotiations with the UMWA for a successor agreement to the 1984 Wage Agreement. The parties entered into an agreement on that date "to be bound by and comply fully with the terms and conditions of the 1988 National Agreement ... except as hereinafter modified." The parties further agreed that "the effective date of this Agreement commences upon membership ratification." The effective date shown on the cover of the 1988 Wage Agreement between the Respondent and the UMWA is June 17, 1988. Article XXIX of the 1988 Wage Agreement, as cited in an arbitration decision submitted by the Complainant, also says, "[t]his Agreement shall become effective on the day of notification" to the Respondent by the UMWA "that this Agreement has been ratified and approved by the membership covered thereby."

The Complainant was hospitalized on June 17, 1988 and treated for kidney stones. The Respondent has refused to pay the medical expenses incurred by the Employee on the basis that treatment was provided before it received notice from the UMWA of the ratification of the 1988 Agreement. The Respondent states that it was notified at about 6:30 p.m. on June 17, 1988 that the contract had been ratified, and the contract became effective at that time. The Respondent

reinstated health benefits coverage for the Complainant, effective June 18, 1988. The Complainant returned to active work with the Respondent June 20, 1988.

Dispute

Whether the Respondent is required to pay the medical expenses incurred by the Complainant on June 17, 1988.

Positions of the Parties

Position of the Complainant: The Respondent is required to pay the covered medical charges incurred by the Complainant on June 17, 1988 because the Respondent's contract with the UMWA was in effect on the day the charges were incurred.

Position of the Respondent: The Respondent is not responsible for payment of the medical expenses incurred by the Complainant on June 17, 1988 because such expenses were incurred before the terms of the 1988 Wage Agreement were in effect. Even if the Wage Agreement was in effect on June 17, 1988, the Complainant had other coverage at the time which should be considered primary for payment of his medical expenses and the Respondent's plan should be secondary.

Pertinent Provisions

Article XX (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1988 provides in pertinent part:

(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 1988, 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) 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

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;

Article III. A. (10) (e) and (f) of the Employer Benefit Plan provide in pertinent part:

(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 another insurance policy or other medical plan covers....

(f) Non-Duplication

The health benefits provided under this Plan are subject to a non-duplication provision as follows:

1. Benefits will be reduced by benefits provided under any other group plan, including a plan of another Employer signatory to the Wage Agreement, if the other plan:
 - (i) does not include a coordination of benefits or non-duplication provision, or
 - (ii) includes a coordination of benefits or non-duplication provision and is the primary plan as compared to this Plan.

*Actively at work includes an Employee of the Employer who was actively at work on January 31, 1988, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

Discussion

The dispute in this case is whether the 1988 Wage Agreement executed by the Respondent and the UMWA was in effect at the time medical expenses were incurred by the Complainant on June 17, 1988. The language of the agreements between the Respondent and the UMWA is clear. Paragraph 6 of the two-page Agreement entered into on June 14, 1988 says, "the effective date of this Agreement commences upon membership ratification...." In addition, Article XXIX of the 1988 Wage Agreement executed by the UMWA and the Respondent says, "[t]his Agreement shall become effective on the day of notification ... that this Agreement has been ratified...." Therefore, both agreements became effective on the date or day of ratification, which was June 17, 1988. There is no stipulation in either agreement that the Wage Agreement would become effective at the exact hour when the Respondent was notified of membership ratification. Inasmuch as the Complainant's medical expenses were incurred on the effective date of the Agreement, June 17, 1988, they may be considered for coverage under the Employer Benefit Plan established pursuant thereto.

The Respondent asserts that the Complainant had other coverage which should be considered primary for payment of the medical expenses incurred on June 17, 1988, and the Respondent's plan should be secondary. Article III. A. (10)(e) of the Plan states that the Plan does not assume primary responsibility for covered medical expenses which another insurance policy or other medical plan covers. In addition, Article III. A. (10)(f) of the Plan provides for non-duplication of benefits by an Employer Benefit Plan and another group plan in situations where a beneficiary is covered by both plans. The information provided in this case indicates that the Complainant was covered during the strike against the Respondent under a plan established by the UMWA. A summary of the benefits offered under that plan states that coverage terminates upon strike conclusion. It has been established that the Complainant's medical expenses were incurred on the effective date of the Wage Agreement between the Respondent and the UMWA, after the conclusion of the strike. Therefore, the Complainant's coverage under the UMWA plan was not in effect at that time, and the subrogation and non-duplication of benefits provisions do not apply in this situation.

Opinion of the Trustees

The Respondent is required to pay the covered medical expenses incurred by the Complainant on June 17, 1988, under the terms of the Employer Benefit Plan.