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## OPINION OF TRUSTEES

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### In Re

Complainants: Employees  
Respondent: Employer  
ROD Case No: 88-181 - January 16, 1990

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 Employees under the terms of the Employer Benefit Plan.

### Background Facts

The Complainants are employed in classified positions by the Respondent, a signatory employer. The representative for the Complainants states that beginning June 12, 1989 there was a work stoppage at the Respondent's operations.

According to the Respondent, the Complainants were immediately asked to return to work on their next scheduled shift, and they were informed that refusal to return to work would result in the suspension of their health benefits. The Respondent notified the Complainants by letter dated June 28, 1989 that, if their health benefits coverage was terminated, they could choose to continue such coverage at their expense for a period of up to 18 months under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). The Respondent notified the Complainants by letter dated July 6, 1989 that because they had not returned to work, their employer-provided health benefits coverage was terminated effective July 5, 1989. Health benefits coverage was reinstated when the Complainants returned to work on July 18, 1989.

The Complainants have submitted copies of unpaid bills for medical expenses incurred by them and their dependents from July 5, 1989 through July 17, 1989. The Complainants contend that the company should pay these medical expenses because Article XX of the National Bituminous Coal Wage Agreement ("Wage Agreement") does not provide for the cancellation of health benefits coverage during an unauthorized work stoppage.

### Dispute

Whether the Respondent is required to provide health benefits coverage for the Complainants during a work stoppage?

Positions of the Parties

Position of the Complainants: The 1988 Wage Agreement does not provide for the cancellation of health benefits coverage during a work stoppage; therefore, the Respondent is required to pay the medical expenses incurred by the Complainants and their eligible dependents during the period from July 5, 1989 to July 17, 1989.

Position of the Respondent: The Respondent is not required to provide health benefits coverage for the Complainants during the unauthorized work stoppage because the Complainants were not considered "active" or "working miners" and the 1988 Wage Agreement was in a state of suspension during the work stoppage. The Respondent contends that since the Plan provides for the termination of coverage during an approved leave of absence, it is reasonable to terminate coverage during an unapproved leave of absence such as the work stoppage in this case.

Pertinent Provisions

Article XX Section (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.... The plans established pursuant to this subsection are incorporated by reference and made a part of this Agreement, and the terms and conditions under which the health and other non-pension benefits will be provided under such plans are as to be 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. 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 provided to any Employee who:

- (1) is actively at work\* for the Employer on the effective date of the Wage Agreement; or
- (2) is on layoff or disabled from the Employer and had continuing eligibility as of the effective date of the Wage Agreement for coverage under the 1984 Employer's Benefit Plan ("prior Plan" as a laid-off or disabled employee. Coverage for such laid-off or disabled Employees shall not continue beyond the date when they would no longer have been eligible for such coverage under the provisions of the prior Plan.
- (3) Except as provided in paragraph (2) above, any Employee of the Employer who is not actively at work\* for the Employer on the effective date of the Wage Agreement will not be eligible for coverage under the Plan until he returns to active employment with the Employer.

Any Employee of the Employer who as of January 31, 1988, was eligible for benefits under the prior Plan who is not scheduled to work within two weeks after the effective date of the Wage Agreement because of lack of work, such an Employee will, for purposes of this Plan, be considered eligible for coverage under this Plan as of the effective date of the Wage Agreement but as an Employee on layoff as of such date.

- (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

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\*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.

Article III. D. (1)(c) and (e) of the Employer Benefit Plan provide, in pertinent part:

Article III - Benefits

D. General Provisions

(1) Continuation of Coverage

(c) Leave of Absence

1. During any period for which an employee is granted an approved leave of absence for the purpose of accepting temporary employment with the United Mine Workers of America (UMWA) such Employee shall be eligible to continue health, life and accidental death and dismemberment insurance coverage for a period not to exceed 120 calendar days within any 12-month period.

2. During any period for which an Employee is granted an approved leave of absence for any other reason, such Employee's eligibility for health, life and accidental death and dismemberment insurance coverage shall be terminated as of the day last worked and shall not be reinstated until the Employee returns to active work except as provided in paragraph 3 below.

(e) Quit or Discharge

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

Discussion

Article XX Section (c)(3)(i) of the 1988 Wage Agreement requires each signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such Plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such Plan. The Complainants contend that the Respondent is required to provide health benefits coverage during the work stoppage from July 5, 1989 to July 17, 1989.

The Respondent asserts that the 1988 Wage Agreement was in a state of suspension during the work stoppage. The exemption granted to the Trustees by the United States Department of Labor only authorizes the Trustees to resolve disputes arising under the terms of the Employer Benefit Plan. The Trustees have no authority to resolve this issue because the provisions of the

Employer Benefit Plan do not address this issue. Therefore, this ROD will be decided on the Plan's provisions and it is assumed that the 1988 Wage Agreement was in full force and effect in the absence of any evidence of any finding or admission that the 1988 Wage Agreement was suspended during the work stoppage.

Article I. (4) of the Employer Benefit Plan defines "Employee" as a person working in a classified job for the Employer." In ROD 166 (copy enclosed herein), the Trustees determined that an individual need not be physically performing classified work for an Employer at the time in question to be deemed an "Employee." Although the Complainants did not physically perform work during the work stoppage, there is no evidence that their employment relationship with the Respondent was severed. Thus, during the work stoppage, the Complainants remained Employees within the meaning of Article I (4).

In ROD 84-279 (copy enclosed herein), the Trustees decided a similar issue. There a work stoppage occurred because of picketing by retirees at the Respondent's mine site. The Trustees decided that this work stoppage did not provide a basis for the Employer to withhold benefits under the Plan.

Under Article II. A. of the Employer Benefit Plan, health benefits are provided to "Active Employees" which includes those Employees actively at work on the effective date of the Wage Agreement and new Employees who are eligible for coverage from the first day worked for the Employer. The Complainants were entitled to health benefits coverage pursuant to Article II. A. when the work stoppage began on June 12, 1989. The only conditions under which an Employee's health benefits coverage can be terminated are set forth in Article III. D. (1)(c) and (e) of the Employer Benefit Plan. Article III. D. (1)(c) provides that if an Employee is granted an approved leave of absence for any reason, other than to accept temporary employment with the UMWA, health benefits coverage shall be terminated as of the last day worked. Article III. D. (1)(e) provides that if an Employee quits or is discharged, health benefits coverage will cease as of the date last worked. In this case, the Complainants were not granted an approved leave of absence, they were not discharged and did not quit; thus, there is no Plan provision that mandates that their health benefits coverage be terminated. Inasmuch as the Complainants were classified Employees of the Respondent, the Respondent is responsible for providing their health benefits coverage during the work stoppage that began on June 12, 1989, consistent with the terms of the Employer Benefit Plan.

#### Opinion of the Trustees

Based upon the provisions of and consistent with the terms of the Employer Benefit Plan, the Respondent is responsible for providing health benefits coverage to the Complainants and their eligible dependents for the period during the work stoppage from July 5, 1989 through July 17, 1989.