
OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 88-279 - July 25, 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 under the terms of the Employer Benefit Plan.

Background Facts

The Complainant began working for the Respondent in a classified position on June 18, 1981. On February 15, 1990, he was laid off and the Respondent ceased operations. According to Funds' records, the Complainant worked over 2,000 hours for the Respondent in the 24-month period prior to February 15, 1990, his date last worked.

The Complainant claims that the Respondent has failed to maintain the health benefits coverage required by the terms of the National Bituminous Coal Wage Agreement ("Wage Agreement"). Information provided by the Complainant indicates that the Respondent provided coverage through Connecticut General Insurance for some period during 1987. The Respondent subsequently provided coverage through Nobel Group Benefits from February 1, 1987 until November 8 1988, and through Provident Life and Accident Insurance from November 28, 1988 through March 31, 1989. The Respondent provided coverage under a plan implemented through The Travelers Insurance Company effective June 1, 1989. The Complainant has submitted a copy of the Summary Plan Description which indicates that benefit payments under that plan are subject to a \$300 deductible per family and, thereafter, benefits are paid up to 80% of the cost of service. The beneficiary is responsible for the remaining 20% of covered expenses until the maximum yearly out-of-pocket amount of \$1,500 per family is reached. In addition, the types of benefits provided under that plan are different from those that are required under Article III of the Employer Benefit Plan, and there is no provision for vision care coverage. The Complainant states that his coverage through The Travelers Insurance Company was terminated on April 1, 1990.

The Complainant has submitted copies of unpaid medical bills incurred between October 1987 and January 1990, along with notices from collection agencies of payments due. The

Complainant states that the Respondent has agreed that it is responsible for payment of the outstanding medical bills, but no payments have been made. The Complainant contends that the Respondent is responsible for payment of the covered medical expenses incurred during his period of employment and for providing continued health benefits coverage for him as a laid-off Employee.

Dispute

Whether the Respondent is responsible for payment of the Complainants unpaid medical bills and for providing health benefits coverage for the Complainant as an active Employee and as a laid-off Employee at the level prescribed by the Employer Benefit Plan.

Positions of the Parties

Position of the Complainant: The Respondent is responsible for payment of the unpaid medical bills incurred by the Complainant and his eligible dependents and for the continuation of health benefits coverage for the Complainant as a laid-off Employee at the level prescribed by the Employer Benefit Plan.

Position of the Respondent: The Respondent has not replied to repeated correspondence from Funds' staff requesting its position in this dispute.

Pertinent Provisions

Article XX (c)(3)(i) of the National Bituminous Coal Wage Agreements of 1984 and 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 1984 (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) and (4) of the Employer Benefit Plan provides:

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.

Article III A. (8) and (9) of the Employer Benefit Plan provide in pertinent part:

Article III - Benefits

A. Health Benefits

(8) Co-Payments

Certain benefits provided in this Plan shall be subject to the co-payments set forth below and such co-payments shall be the responsibility of the Beneficiary. The Plan Administrator shall implement such procedures as deemed appropriate to achieve the intent of these co-payments....

Co-Payments for covered Health Benefits are established as follows:

BenefitCo-Payment

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| (a) Physician services as an out-patient as set forth in Section A (2) and physician visits in connection with the benefits set forth in Section A (3), paragraph (c) but only for pre- and post- | Working Group -- \$7.50 per visit up to a maximum of \$150 per 12-month period(*) per family.
Non-working Group -- \$5 per visit up to a maximum of \$100 per 12-month period(*) per family. |
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*Actively at work includes an Employee of the Employer who was actively at work on September 30, 1984 (January 31, 1988), and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

natal visits if the physician charges separately for such visits in addition to the charge for delivery, and paragraphs (g) through (m), paragraph (n) except inpatient surgery, paragraph (o) and Section A(7) paragraph (f).

(b) Prescription drugs and insulin, \$5 per prescription or refill up to a \$50 maximum per 12-month period(*) as set forth in Section A (4) and take-home drugs following hospital confinement as set forth in Section A (1) (a). per family.
Note: For purposes of this co-payment provision, a prescription or refill shall be deemed to be each 30 days (or fraction thereof) supply.

If an employee is covered under an employee Plan (established pursuant to the NBCWA of 1978) by more than one signatory employer during a 12-month period(*), the total co-payments made by the employee during such period shall be counted toward the 12-month(*) maximum.

(9) Vision Care Program

(a) <u>Benefits</u>	<u>Actual Charge Up To Maximum Amount</u>	<u>Frequency Limits</u>
Vision Examination	\$20	Once every 24 months
Per Lens (Maximum = 2)		Once every 24 months
- Single Vision	10	
- Bifocal	15	
- Trifocal	20	
- Lenticular	25	
- Contact	15	
Frames 14		Once every 24 months

* The 12-month periods shall begin on the following dates: March 27, 1988; March 27, 1989; March 27, 1990; March 27, 1991 and March 27, 1992.

Article III D. (1) (a) of the Employer Benefit Plan provides:

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

Discussion

Article XX Section (c)(3)(i) of the 1984 and 1988 Wage Agreements requires a signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees. The Wage Agreements stipulate that benefits provided by an Employer pursuant to such Plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such Plan.

Article II A. of the Employer Benefit Plan provides health benefits coverage for active Employees working in classified jobs for a signatory Employer. Article III 0. (1) (a) provides continued benefits coverage for laid-off Employees for a defined period based upon the number of hours worked for the Employer during the 24-month period immediately prior to the date last worked. Inasmuch as the Complainant was actively employed in a classified position by the Respondent until he was laid off on February 15, 1990, the Respondent is responsible for the provision of his health benefits coverage during his active employment. Inasmuch as the Complainant worked over 2,000 hours for the Respondent during the 24-month period prior to February 15, 1990, the Respondent is responsible for the continuation of the Complainant's health benefits coverage for the remainder of February 1990 plus twelve months, consistent with the terms of Article III 0. of the Employer Benefit Plan.

Article III A. of the Employer Benefit Plan specifies the benefits, including vision care coverage, which are to be provided under the Employer Benefit Plan. Article III A. (8) of the Employer

Benefit Plan specifies the co-payments which are the responsibility of the beneficiary for medical services and prescriptions. Levels of benefits to be provided to Employees, Pensioners and their dependents and survivors are established through collective bargaining and may not be unilaterally changed by an Employer. The Respondent's use of a non-conforming health coverage plan is inconsistent with the provisions of the Wage Agreement and the Employer Benefit Plan. The Respondent is responsible for providing health benefits coverage for the Complainant and his eligible dependents at the level specified in the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is responsible for payment of the covered medical expenses incurred by the Complainant and his eligible dependents during his eligibility for coverage as an active Employee and as a laid-off Employee under the terms of the Employer Benefit Plan. The Respondent is also responsible for the continuation of the Complainant's health benefits coverage at the level specified in the Wage Agreement and the Employer Benefit Plan for the period determined pursuant to Article III 0. (1) (a) of the Plan.