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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-333 - December 5, 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 an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant worked in a classified position for the Respondent from October 1988 until May 22, 1990, when the Complainant accepted employment with another Employer. The Complainant contends that the Respondent failed to provide health benefits coverage at the level prescribed by the terms of the Employer Benefit Plan. The Complainant has submitted copies of unpaid bills for medical expenses incurred during his employment with the Respondent. The Complainant states that he has paid some of the bills in order to avoid legal action to collect the amounts due.

The representative for the Complainant contends that the Complainant was without health benefits coverage when some of his medical expenses were incurred. Information provided to the Funds indicates that the Respondent provided health benefits coverage for the Complainant through Blue Cross and Blue Shield, effective July 1, 1989. Under this policy, benefit payments are subject to an annual deductible of \$100 and, thereafter, benefits are paid up to 80% of the covered expenses until a beneficiary reaches the annual out-of-pocket limit of \$1,000. Coverage for vision care is not provided and prescriptions for "name" brand drugs are subject to a co-payment of \$10 under this policy.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant and his eligible dependents at the level prescribed by the Employer Benefit Plan?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant and his eligible dependents at the level prescribed by the Employer Benefit Plan and to pay the covered medical expenses incurred by the Complainant and his eligible dependents during his employment with the Respondent.

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 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. (4) 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

- (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....

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

Benefit Co-Payment

(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-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).

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.

(b) Prescription drugs and insulin, as set forth in

\$5 per prescription or refill up to a \$50 maximum per 12-month period(\*)

\* 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.

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.

(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

Article III D. (1)(e) of the Employer Benefit Plan provides in pertinent part:

D. General Provisions

(1) Continuation of Coverage

(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 a 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 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 D. (1)(e) states that, if an Employee quits for any reason, health benefits coverage will terminate as of the date last worked. Inasmuch as the Complainant was actively employed in a classified position by the Respondent from October 1988 until he quit to accept other employment on May 22, 1990, the Respondent is responsible for providing health benefits coverage for the Complainant and his eligible dependents from his first day worked for the Respondent through May 22, 1990.

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, and for payment of the Plan-covered medical expenses incurred by the Complainant and his eligible dependents during his active employment with the Respondent.

#### Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant and his eligible dependents at the level specified in the Employer Benefit Plan and to pay the Plan-covered medical expenses incurred by the Complainant and his eligible dependents during his active employment with the Respondent.