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## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 88-357 - March 18, 1991

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 a Pensioner under the terms of the Employer Benefit Plan.

### Background Facts

The Complainant was employed in a classified position by the Respondent from June 2, 1981 until June 28, 1981, when he ceased working due to pain and complications resulting from an injury that had occurred while he was employed in a classified position with a previous employer. On August 15, 1985, the Complainant's application for Social Security Disability Insurance ("SSDI") benefits under Title II of the Social Security Act was approved on appeal by an Administrative Law Judge, with a disability onset date of June 6, 1983.

The Complainant applied for disability pension benefits from the UMWA 1974 Pension Plan on October 17, 1988. The Complainant was subsequently notified that he was eligible for a 1974 Pension Plan Minimum Disability pension, effective July 1, 1983. The Complainant was advised to contact the Respondent, his last signatory employer, regarding his eligibility for health benefits coverage as a Pensioner. The Complainant states that the Respondent has refused to provide him with health benefits coverage.

The Respondent was signatory to the National Bituminous Wage Agreements ("Wage Agreement") of 1981 and 1984, and is signatory to the 1987 Employment and Economic Security Pact (EESP).

### Dispute

Is the Respondent responsible for providing health benefits coverage for the Complainant as a Pensioner?

### Positions of the Parties

Position of the Complainant: The Respondent is responsible for providing health benefits coverage for the Complainant as a Pensioner.

Position of the Respondent: The Respondent has not responded 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 Agreements of 1981, 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 (5) of the Employer Benefit Plan provides:

#### 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 1981 [1984, 1988], as amended from time to time and any successor agreement.
- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan.

Article II B. (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:

B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows:

- (1) Any Pensioner who is not again employed In classified signatory employment subsequent to
  - (a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and
  - (b) June 7, 1981 [October 1, 1984; February 1, 1988], shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this Plan. Notwithstanding (I) and (ii) of the definition of Pensioner in Article I(S) of this Plan, any such Pensioner who was eligible for benefits under the 1974 Benefit Plan as a Pensioner on December 5, 1977, shall be eligible for such benefits, subject to all other provisions of this Plan.

Discussion

The Respondent was signatory to the 1981 and 1984 National Bituminous Coal Wage Agreements. On May 5, 1987, the Respondent signed the 1987 Employment and Economic Security Pact in which it agreed, among other things, to be bound by the terms and conditions of the "agreement successor to the 1984 National Bituminous Coal Wage Agreement." Accordingly, the Respondent, by virtue of its having executed the 1987 EESP, is considered signatory to the 1988 National Bituminous Coal Wage Agreement.

Article XX (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 Pensioners whose last signatory classified employment was with such Employer. The Wage Agreement stipulates that benefits provided pursuant to such Plan shall be guaranteed during the term of the Agreement.

Article II B. of the Employer Benefit Plan establishes that an individual who is eligible for pension benefits under the 1974 Pension Plan is eligible for health benefits coverage under the Employer Benefit Plan, with certain exceptions not relevant here. Inasmuch as the Complainant is receiving a Minimum Disability pension effective July 1, 1983, he is eligible for health benefits coverage as a Pensioner under Article II B. of the Employer Benefit Plan established by his last signatory Employer, the Respondent. Therefore, the Respondent is responsible for providing health benefits coverage for the Complainant and his eligible dependents, effective July 1, 1983.

Opinion of the Trustees

The Respondent is responsible for providing health benefits coverage for the Complainant as a Pensioner, effective July 1, 1983.

