

OPINION OF TRUSTEES

---

In Re

Complainants: Employees and Laid-off Employees  
Respondent: Employer  
ROD Case No: 88-431 - November 20, 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 under the terms of the Employer Benefit Plan.

Background Facts

The Complainants are active and laid-off classified Employees. The laid-off Employees last worked for the Respondent, a signatory Employer, in April 1991. The representative for the Complainants contends that the Respondent has failed to maintain health benefits coverage as required by the terms of the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1988.

According to the information provided in this case, the Respondent provided health benefits coverage for the Complainants through Blue Cross and Blue Shield until January 31, 1991. The Respondent apparently did not provide health benefits coverage through a private insurance carrier during the months of February, March, April and May 1991. The Complainants have submitted copies of unpaid medical bills that were incurred during this period.

Since June 1, 1991, the Respondent has provided coverage under a plan implemented through CIGNA. Benefit payments under that plan are paid up to 80% of the charge for covered services and the Complainants are responsible for the remaining 20% of covered expenses.

The representative for the Complainants contends that the Respondent is required to provide health benefits coverage for the Complainants and their eligible dependents at the level prescribed by the Employer Benefit Plan and to pay the covered medical charges incurred by the Complainants and their eligible dependents during their employment and during their periods of eligibility for continued coverage as laid-off Employees.

The representative for the Respondent states that the Respondent is attempting to resolve the issues in dispute. The Complainants' representative states that this dispute has not been resolved because the 80/20 plan is still in effect and the Complainants' medical bills have not been paid.

### Dispute

Whether the Respondent is required to pay the Complainants' unpaid medical bills and to provide health benefits coverage for the Complainants at the level prescribed by the Employer Benefit Plan.

### Positions of the Parties

Position of the Complainants: The Respondent is required to pay the unpaid medical bills incurred by the Complainants and their eligible dependents and to provide health benefits coverage for the Complainants at the level prescribed by the Employer Benefit Plan during their employment and during their periods of eligibility for coverage as laid-off Employees.

Position of the Respondent: The Respondent's representative states that the Complainants' outstanding medical bills are being reviewed for payment, and the Respondent is attempting to obtain health benefits coverage as required by the Employer Benefit Plan. The Respondent also states that one of the Complainants accepted other employment on May 10, 1991 while on layoff and, pursuant to Article III b. (1)(f), is not entitled to coverage beyond that date.

### 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....

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) and (4) of the Employer Benefit Plan provide:

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

---

\*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 A. (8) of the Employer Benefit Plan provides 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:

<u>Benefit</u>	<u>Co-Payment</u>
----------------	-------------------

(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(\*) per family.

(b) Prescription drugs and insulin, as set forth in Section A(4) and take-home drugs following hospital confinement as set forth in Section A (1) (a).

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

---

\* 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) and (f) of the Employer Benefit Plan provide in pertinent part:

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:

Number of Hours Worked for  
the Employer in the 24  
Consecutive Calendar Month

<u>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

(f) Other Employment

Notwithstanding the foregoing, in the event an Employee accepts employment during a period of continued coverage under paragraph (a), health, life and accidental death and dismemberment insurance coverage will terminate as of the date of such employment....

Discussion

Article XX Section (c)(3)(i) of 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) (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. Article III D. (1)(f) stipulates that such period of continued benefits coverage will terminate as of the date a laid-off Employee accepts other employment. Inasmuch as the Complainants are active Employees of the Respondent and Employees who were laid off by the Respondent in April 1991, the Respondent is responsible for providing health benefits coverage for the Complainants throughout their individual periods of eligibility for coverage as Employees and laid-off Employees under the terms of the Employer Benefit Plan, or until they accepted other employment. Accordingly, the Respondent is required to pay the Plan-covered medical expenses incurred by the Complainants and their eligible dependents who were entitled to coverage during the period from February 1991 through May 1991, when apparently no coverage was provided.

Article III A. of the Employer Benefit Plan specifies the benefits 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 80/20 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 Complainants and their eligible dependents at the level specified in the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainants at the level specified in the Employer Benefit Plan established pursuant to the Wage Agreement, and for payment of the Plan-covered medical expenses incurred by the Complainants and their eligible dependents during their active employment and during their periods of eligibility for health benefits coverage as laid-off Employees, as determined pursuant to Article III D. (1) (a), or until they accepted other employment.