

---

OPINION OF TRUSTEES

---

In Re

Complainant: Disabled Employee  
Respondent: Employer  
ROD Case No: 88-446 - 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 benefits coverage for a disabled Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was working in a classified position for the Respondent on June 15, 1990, when he sustained a work-related injury. As a result of his injury, the Complainant was unable to return to work. Funds' records indicate that the Complainant worked over 2,000 hours for the Respondent during the 24-month period immediately prior to his date last worked.

Sometime shortly after the Complainant's injury, the Respondent notified the Complainant that June 15, 1990 was the date of his "qualifying event" and that he therefore could elect to continue benefits coverage at his own expense under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). The Respondent provided continued benefits coverage for the Complainant as a disabled Employee pursuant to Article III. D. (1) (b) of the Employer Benefit Plan from June 16, 1990 through June 30, 1991.

The Complainant contends that following his period of eligibility for coverage as a disabled Employee under the Employer Benefit Plan, he is entitled to continuation of coverage under COBRA for an 18-month period from July 1, 1991 through December 31, 1992, instead of the additional 6 months beyond June 30, 1991 that the Respondent has offered.

Dispute

Whether the Respondent is required to offer the Complainant a continuation of coverage for 6 months or 18 months beyond June 30, 1991 pursuant to COBRA.

#### Positions of the Parties

Position of the Complainant: Under COBRA, the Respondent is required to offer the Complainant the opportunity to elect 18 months of continued coverage beyond July 1, 1991, the date his coverage under the Employer Benefit Plan was terminated.

Position of the Respondent: The Respondent has complied with the provisions of the Employer Benefit Plan by providing the extended coverage due under Article III. D. (1) (b) and by offering election rights under COBRA at the time of the Complainant's qualifying event, which was June 15, 1990. The Respondent claims that the ROD process is not the appropriate forum for an interpretation of federal law.

#### Pertinent Provisions

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 C. (3) of the Employer Benefit Plan provides:

##### Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

#### C. Disabled Employees

In addition to disabled Pensioners who are receiving pension benefits and are therefore entitled to receive health benefits under paragraph B of this Article II, health benefits under Article III shall also be provided to any Employee who:

(3) Is receiving or would, upon proper application, be eligible to receive Sickness and Accident Benefits pursuant to the Wage Agreement.

Life and accidental death and dismemberment insurance shall also be provided to Employees described in (3) above.

Article III D. (1) (a), (b), (d) and (h) of the Employer Benefit Plan provide:

Article III - Benefits

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

(b) Disability

Except as otherwise provided in Article II, Section C, if an Employee ceases work because of disability, the Employee will be eligible to continue health, life and accidental death and dismemberment coverage while disabled for the greater of (i) the period of eligibility for Sickness and Accident benefits, or (ii) the period as set forth in the schedule in (a) above.

(d) Maximum Continuation of Coverage

In no event shall any combination of the provisions of (a), (b), (c), (e) or (g), above result in continuation of coverage beyond the balance of the month plus 12 months from the date last worked.

(h) COBRA Continuation Coverage

Notwithstanding the foregoing, this Plan shall comply with the health care continuation coverage provisions of Sections 601-608 of ERISA and Section 162(i) and (k) of the Internal Revenue Code, effective the first day of the plan year beginning on or after January 31, 1988. The Plan Administrator shall include appropriate language explaining the Employees', Beneficiaries' and Pensioners' rights under COBRA in the next Summary Plan description booklet distributed.

Discussion

Article II C. (3) of the Employer Benefit Plan provides health benefits coverage for a disabled Employee who is receiving or would be eligible to receive Sickness and Accident Benefits pursuant to the Wage Agreement. In addition, Article III D. (1) (b) provides that an Employee who ceases work because of disability will be eligible to continue health, life and accidental death and dismemberment coverage while disabled for the greater of (i) the period of eligibility for Sickness and Accident benefits, or (ii) the period based on the number of hours worked as set forth in Article III D. (1) (a). Inasmuch as the Complainant ceased work because of disability on June 15, 1990, and had worked over 2,000 hours for the Respondent during the 24-month period prior to his date last worked, the Respondent provided continued benefits coverage for the Complainant under the Employer Benefit Plan for the balance of June 1990 plus 12 months (through June 30, 1991), the maximum period allowable under Article III. D. (1)(d).

The issue here is whether the Respondent is required to offer the Complainant COBRA continuation coverage for 6 months or 18 months beyond June 30, 1991. The Respondent has challenged the Trustees' authority to resolve this dispute on the grounds that it involves an interpretation of federal law under COBRA. Article XX Section (e)(6) of the Wage Agreement authorizes the Trustees to resolve disputes arising under that Agreement with regard to the Employer Benefit Plan. In addition, Article III D. (1)(h) of the Employer Benefit Plan states that the Plan shall comply with federal law pertaining to the health care continuation coverage requirements of COBRA. Because the Employer Benefit Plan expressly requires compliance with federal law under COBRA, the Trustees may resolve this dispute, consistent with their authority under Article XX Section (e)(6) of the Wage Agreement.

In general, COBRA requires an Employer to offer an Employee whose health benefits coverage ends as the result of a "qualifying event" an opportunity to elect continuation coverage under the Plan. Such coverage is referred to as COBRA continuation coverage. Proposed regulations issued pursuant to COBRA state that a qualifying event includes, among other things, the termination, or reduction of hours, of a covered employee's employment. The regulations further

state that when the qualifying event is a termination or reduction of hours, the employee's maximum coverage period ends 18 months after the qualifying event. The end of the maximum coverage period is measured from the date of the qualifying event, even if the qualifying event does not result in a loss of coverage under the employer's plan until some later date.

In this case, the Complainant's qualifying event occurred when he ceased working on June 15, 1990. Even though the Complainant's coverage under the Employer Benefit Plan did not end until June 30, 1991, the Complainant's maximum coverage period under COBRA ends 18 months after the qualifying event that gives rise to his election rights for COBRA continuation coverage. Accordingly, the Respondent is required to offer the Complainant the opportunity to elect COBRA continuation coverage for a maximum of 18 months beyond June 15, 1990.

Opinion of the Trustees

The Respondent is required to offer the Complainant the opportunity to elect COBRA continuation coverage for a maximum of 18 months beyond the qualifying event that occurred on June 15, 1990.