

---

## OPINION OF TRUSTEES

---

### In Re

Complainant: Employees  
Respondent: Employer  
ROD Case No: 88-633 - August 5, 1993

Board of Trustees: Michael H. Holland, Chairman; Thomas F. Connors, Trustee; Marty D. Hudson, Trustee; Robert T. Wallace, Trustee.

The Trustees have reviewed the facts and circumstances of this dispute concerning timely payment of health claims for Employees under the terms of the Employer Benefit Plan.

### Background Facts

The Complainants are Employees who are covered under a health benefits plan provided by the Respondent. The Complainants contend that the Respondent has failed to pay health claims in a timely manner as required by the terms of Article XX of the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1988. The Employees state that their credit ratings have been placed in jeopardy by the Employer's failure to pay medical benefits within a reasonable period of time. The Complainants have included copies of bills that had been outstanding for up to six months. In some cases, providers have added interest charges on unpaid balances resulting in additional costs.

The Respondent provides health benefits coverage for the Complainants through a third party claims administrator, Northwest National Life Insurance Company, which processes and pays the claims from funds provided by the Respondent. The Respondent does not deny that it is behind in paying claims that have been submitted, but states that the delays are due to cash flow problems beyond its control. The Respondent contends that every attempt is being made to catch up as quickly as possible, but if forced to pay all medical claims at one time, the company would have to cut drastically in some other area, possibly trading jobs for benefits. The Respondent further states that Employees who are facing threats of actual suits or forced collection have been instructed to bring this to the Employer's attention so that those particular claims can be paid first. In some cases, the Respondent has contacted providers to inform them that payment will be made as soon as possible.

The Employer contends that its financial situation is improving and that with cooperation and patience, all of the claims will eventually be resolved.

### Dispute

Whether the Respondent has provided health benefits coverage for the Complainants and their eligible dependents as required under Article XX of the Wage Agreement.

#### Positions of the Parties

Position of the Complainants: The Respondent has failed to provide prompt health benefits coverage for the Complainants. The Respondent is required to pay the covered medical expenses incurred by the Complainants and their eligible dependents in a timely manner.

Position of the Respondent: The Respondent is doing its best to provide health benefits coverage to its Employees and eligible dependents given its cash flow problems due to circumstances beyond its control and should be allowed the time to catch up on paying the outstanding medical claims so that the company can continue to operate and continue to provide jobs to union members.

#### 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 XX, General Description, Section (12) Health Care Cost Containment, states in pertinent part:

The Union and the Employers recognize the rapidly escalating health care costs, including the costs of medically unnecessary services and inappropriate treatment, have a detrimental impact on the health benefit program. The Union and the Employers agree that a solution to this mutual problem requires the cooperation of both parties, at all levels, to control costs and to work with the health care community to provide quality health care at reasonable costs. The Union and the Employers are, therefore, committed to fully support appropriate programs designed to accomplish this objective. This statement of purpose in no way implies a reduction of benefits or additional costs for covered services provided miners, pensioners and their families....

#### Discussion

Article XX, Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1988 states that an Employer must establish and maintain an Employee Benefit Plan for its Employees covered by this agreement. Both the Wage Agreement and the Employer Benefit Plan are silent on the time within which the Employer must meet its contractual obligation to provide health benefits. The issue of the timely payment of health claims for Beneficiaries was previously addressed in ROD 88-492 (copy enclosed herein). In that opinion, the Trustees stated that the Employer's failure to process health benefit claims in a timely manner did not conform to the requirements of the Wage Agreement or the Plan; that processing time should not cause collection action to be taken against the Complainants nor result in any actions that would impair their creditworthiness; that the Employer must insulate and defend the complainants against any such actions.

The respondent also contends that due to financial problems it is unable to pay the Complainants' benefit claims on a more timely basis. In RODs 84-360 and 84-582, the Trustees concluded that an Employer's poor financial status was not a valid defense to a claim for benefits which are contractually due.

As noted in ROD 88-492 (attached), industry practice and the requirements imposed by a majority of states that specify a time period suggests that a reasonable range for the processing and payment of a clean claim is 15 to 60 days. Information submitted with this case indicates that the Employer has allowed health claims to remain outstanding for as long as seven months. Given industry practice and the fact that Complainants have been threatened with collection actions, the Trustees conclude that the Respondent's time period for paying the Complainants' medical claims is unreasonable. The fact that the Respondent has advised Employees who have been threatened with suits and forced collection to contact the Respondent so that those claims can be paid first and that the Respondent has called providers on behalf of Employees does not relieve the Respondent of the responsibility to process and pay health benefits claims in a timely manner. These actions have been taken by the Employer only after Employees have been threatened with collection action by providers and their credit ratings jeopardized.

Additionally, pursuant to Article XX, the General Description, Section (12) of the NBCWA, no reduction of benefits or additional costs for covered services shall be suffered by beneficiaries.

#### Opinion of the Trustees

The Employer's failure to process health benefits claims for the Complainants in a timely manner does not conform to the requirements of the National Bituminous Coal Wage Agreement of 1988 or the Employer Benefit Plan. The processing time taken by the Employer or its agent to adjudicate health benefit claims may not cause collection action to be taken against the Complainants nor result in any other action that would impair the creditworthiness of the Complainants. The Employer must insulate and defend the Complainants against any such actions initiated by the providers.