
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-678 - December 6, 1995

Trustees: Thomas F. Connors, Michael H. Holland, Marty D. Hudson and
Robert T. Wallace.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits for an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was working in a classified position for the Respondent on January 11, 1991, when he sustained a work-related injury. The Complainant was hospitalized due to this injury from January 14, 1991 through January 30, 1991. On January 17, 1991, while in the hospital, the Complainant reported his work-related injury to the Respondent.

The Complainant's application for workers' compensation benefits was approved on appeal by the Virginia Workers' Compensation Commission on May 29, 1992 for a period beginning January 17, 1991 through May 5, 1991 and for an open period beginning May 23, 1991. The Workers' Compensation Commissioner noted in the review of the Complainant's case that the Respondent was not required to provide health benefits coverage to the Complainant between January 11 and January 17, 1991 because the Complainant "was not incapacitated from informing the employer of the occurrence of injury by accident and that reasonable excuse has not been given for not advising the employer [of his injury] in that period." As required by Virginia's workers' compensation law, the Respondent provided health benefits coverage for the periods the Complainant received workers' compensation benefits.

The Representative for the Complainant states that because workers' compensation has denied coverage for medical services provided from January 14, 1991 through January 16, 1991, the Respondent is responsible for providing coverage for this period under the Employer Benefit Plan.

Dispute

Is the Respondent required to provide coverage under the Employer Benefit Plan for the medical expenses incurred by the Complainant from January 14, 1991 through January 16, 1991?

Positions of the Parties

Position of the Complainant: The Respondent should provide coverage under the Employer Benefit Plan for the Complainant's medical expenses that were denied by workers' compensation because there is no third party responsible for payment of the Complainant's medical bills.

Position of the Respondent: The Respondent is not responsible for payment of the Complainant's medical expenses because they were incurred as a result of a compensable injury, and are therefore excluded from coverage under the Employer Benefit Plan. The Respondent states that its position is supported by a previous decision of the Trustees in ROD 88-055.

Pertinent Provisions

Article I (1), (2) and (4) of the 1988 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 III A. (11)(a) 1. of the Employer Benefit Plan provides:

(11) General Exclusions

- (a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:
 1. Cases covered by workers' compensation laws or employer's liability acts or services for which an employer is required by law to furnish in whole or in part.

Discussion

Article III. A. (11) (a) of the Employer Benefit Plan excludes benefits for cases covered by state workers' compensation laws. The Complainant contends that the Respondent should provide coverage under the Employer Benefit Plan for the medical expenses incurred from January 14, 1991 to January 16, 1991 as a result of his compensable injury because workers' compensation has denied coverage for that period. The Trustees have addressed a similar issue in ROD 88-055 (copy enclosed herein).

In ROD 88-055, the Employer denied payment of medical expenses under workers' compensation when an Employee sought treatment but failed to comply with an administrative procedure that required the Employee to secure a second opinion prior to receiving the treatment. The Trustees held that coverage was excluded under the Employer Benefit Plan because the Employee elected to impair his right to receive coverage from workers' compensation by failing to act in accordance with certain administrative procedures. In the present case, coverage was denied by workers' compensation from January 11, 1991 to January 16, 1991 because the Complainant failed to inform the Respondent of the accident prior to January 17, 1991. Thus, the Complainant impaired his right to receive coverage by failing to act in accordance with certain administrative procedures. Inasmuch as the denied medical expenses incurred by the Complainant from January 11, 1991 to January 16, 1991, are covered by workers' compensation laws, the medical expenses are excluded from coverage under the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is not required to provide coverage under the Employer Benefit Plan for the medical expenses incurred by the Complainant from January 14, 1991 through January 16, 1991.