
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-706 - September 28, 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 the provision of health benefits coverage for an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was injured on September 26, 1991, while working in a classified position for a signatory Employer. He received Workers' Compensation benefits and on November 5, 1991, the Complainant was released by a physician to return to work but could only perform work with restrictions. The Complainant ceased work on March 30, 1992, because his Employer no longer had available work with restrictions.

In September 1992, the company that employed the Complainant was purchased by the Respondent, a signatory Employer. The Complainant was examined by the Respondent's physician and was asked to report to work on October 1, 1992. The Complainant returned to work on October 1, 1992. On October 2, 1992, the Complainant submitted a physician's statement regarding his work restrictions to the Respondent. Because there was no restricted work available, the Complainant was sent home. The Complainant returned to work--without restrictions--on December 1, 1992.

The Complainant received Sickness and Accident (S&A) benefits from October 2, 1992, through November 29, 1992. The Respondent terminated health benefits coverage for the Complainant from October 1, 1992, through November 30, 1992, and reinstated his coverage when he return to work on December 1, 1992. In February 1993, the Complainant was awarded Workers' Compensation benefits on appeal for the period from March 30, 1992, through November 29, 1992.

The Complainant contends that he is eligible for health benefits coverage during the period of October 1, 1992, through November 30, 1992. The Respondent states that because the Complainant failed to inform the Respondent of his restricted work status prior to being called

back to work on October 1, 1993, the Complainant's one day return to work did not re-establish his eligibility for health benefits coverage. The Complainant claims that he informed the Respondent's physician of his restricted work status prior to his recall to work.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant during the period of October 1, 1992, through November 30, 1992?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant from October 1, 1992, through November 30, 1992.

Position of the Respondent: The Respondent is not required to provide health benefits coverage from October 1, 1992 through October 30, 1992 because the Complainant failed to notify the Respondent of his work restriction; therefore, his return to work on October 1, 1992 did not re-establish his eligibility for health benefits coverage.

Pertinent Provisions

Article I (1), (2) and (4) 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 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 provides:

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 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.

Discussion

Article II A. of the Employer Benefit Plan provides health benefits coverage for an active Employee working in a classified job for a signatory Employer. Inasmuch as the Complainant

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reported to work on October 1, 1992 as scheduled and was paid wages, the Complainant was eligible for health benefits coverage as an active Employee on October 1, 1992.

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. Inasmuch as the Complainant was eligible for Sickness and Accident benefits from October 2, 1992, through November 29, 1992, the Respondent is required to provide health benefits coverage for the Complainant as a disabled Employee from October 2, 1992, through November 29, 1992.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as an Active Employee on October 1, 1992. The Respondent is also required to provide health benefits coverage for the Complainant as a Disabled Employee from October 2, 1992, through November 29, 1992.