
OPINION OF TRUSTEES

In Re

Complainant: Disabled Employee
Respondent: Employer
ROD Case No: 93-104 - July 21, 2004

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson, and
Elliot A. Segal.

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

Background Facts

The Complainant is under age 55, has over 20 years of signatory service and was awarded SSDI benefits effective May 23, 1997. The Respondent is providing health benefits coverage to the Complainant as a disabled Employee under Article II C. of the Employer Benefit Plan. On July 5, 1997, the Complainant was injured by a vehicle driven by an intruder--a neighbor's son--onto the Complainant's property. The neighbor's son was not insured and did not have permission to drive the vehicle. As a result of the accident, the Complainant incurred medical claims totaling approximately \$70,000. Under the section titled "Medical Payments" of the Complainant's auto insurance policy, the auto insurer made the maximum payment of \$50,000 for "reasonable medical expenses for bodily injury caused by an accident" to the Complainant's medical providers. After this payment, the Complainant had a balance of approximately \$20,000 in outstanding medical claims. The Complainant also received \$50,000 under his uninsured motor vehicle coverage for "damages for bodily injury an insured is legally entitled to collect from the owner or driver of an uninsured motor vehicle."

The Complainant states that since he has exhausted his medical payments coverage under his auto insurance policy, the Respondent is required to provide coverage for his outstanding medical claims. However, the Respondent states that the Complainant's \$50,000 from his uninsured motor vehicle coverage should be used to cover the outstanding medical claims.

Dispute

Is the Respondent required to provide coverage for the Complainant's outstanding medical claims incurred on July 5, 1997?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide coverage for the outstanding medical bills which exceed the medical payment coverage provided by his auto insurance policy.

Position of the Respondent: The Respondent is not required to provide coverage for the outstanding medical claims because the Complainant has not exhausted his coverage under his auto insurance policy.

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 (Insert Employer’s Name).
- (2) “Wage Agreement” means the National Bituminous Coal Wage Agreement of 1993, 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. (1) of the Employer Benefit Plan provides:

ARTICLE II ELIGIBILITY

C. Disabled Employees

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

- (1) (a) Has completed 20 years of credited service, including the required number of years of signatory service pursuant to Article IV C(6) of the 1974 Pension Plan or any corresponding paragraph of any successor thereto, and

- (b) has not attained age 55, and
- (c) became disabled after December 6, 1974 while in classified employment with the Employer, and
- (d) is eligible for Social Security Disability Insurance Benefits under Title II of the Social Security Act or its successor;

Article III A. (10) (e) of the Employer Benefit Plan provides:

ARTICLE III BENEFITS

A. Health Benefits

(10) General Provisions

(e) Subrogation

The Plan does not assume primary responsibility for covered medical expenses which another party is obligated to pay or which another insurance policy or other medical plan covers. Where there is a dispute between the carriers, the Plan shall, subject to provisions 1 and 2 immediately below, pay for such covered expenses but only as a convenience to the Beneficiary eligible for benefits under the Plan and only upon receipt of an appropriate indemnification or subrogation agreement; but the primary and ultimate responsibility for payment shall remain with the other party or carrier.

Obligations to pay benefits on behalf of any beneficiary shall be conditioned:

1. upon such Beneficiary taking all steps necessary or desirable to recover the costs thereof from any third party who may be obligated therefore, and
2. upon such beneficiary executing such documents as are reasonably required by the Plan Administrator, including, but not limited to, an assignment of rights to receive such third party payments, in order to protect and perfect the Plan's right to reimbursement from any such third party.

Discussion

The Trustees deadlocked on this matter. Trustees Holland and Hudson found for the Complainant. Trustees Dunham and Segal found for the Respondent. Under the ROD procedures adopted pursuant to the 2002 NBCWA, the matter was referred to a neutral interest arbitrator, Robert Nagle, for resolution. The arbitrator was directed to choose one of the two draft opinions proposed by the Trustees. The arbitrator's choice is printed below as the opinion of the Trustees.

Decision of the Arbitrator

The Employer is not required to cover any of the medical expenses incurred by the Complainant as a result of his injury on July 5, 1997, because all expenses were covered by the Complainant's own insurance policy.