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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 98-043 – June 30, 2003

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 Employer Benefit Plan.

Background Facts

The Complainant was awarded an Age 55 pension under the 1974 Pension Plan effective March 1, 1998. The Respondent, who is the Complainant's last signatory employer, signed the 1998 National Bituminous Coal Wage Agreement (Wage Agreement) effective May 1, 1998, with a termination date of April 1, 2003.

Since September 2000, the Complainant states that he has been employed outside of the coal industry and earns more than \$1,000, but less than \$1,800, per month. Under the Respondent's Employer Benefit Plan, health benefits are not provided during any month in which a Pensioner is regularly employed at an earnings rate equivalent to at least \$1,000. Therefore, since September 2000, the Complainant has not been eligible for health benefits coverage because his monthly earnings exceed \$1,000.

The 2002 Wage Agreement was ratified effective January 1, 2002, under which the earnings limitation for Pensioners increased to \$1,800 per month. However, the Respondent has not yet signed the 2002 Wage Agreement and the Employer's 1998 Benefit Plan remains in effect.

Dispute

Does the earnings limitation of \$1,800 under the 2002 Wage Agreement apply to the Complainant?

Positions of the Parties

Position of the Complainant: The earnings limitation under the 2002 Wage Agreement applies to the Complainant because other terms of the 2002 Wage Agreement, such as pension increases, apply to the Complainant effective January 1, 2002. In addition, some of the Respondent's other

operations are signatory to the 2002 Wage Agreement, so the new earnings limitation should apply to the Complainant as well.

Position of the Respondent: The earnings limitation under the 2002 Wage Agreement does not apply to the Complainant because the Respondent's 1998 Wage Agreement has not terminated and the terms of the Respondent's Employer Benefit Plan under that Agreement remains applicable until April 1, 2003, or until a successor agreement is reached.

#### Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1998 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 plan. . . .

Article I (1), (2) and (5) of the 1998 Employer Benefit Plan provide:

#### 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 1998, as amended from time to time and any successor agreement.

\* \* \*

- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension

Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan. "Pensioner" shall not mean any individual entitled to benefits under section 9711 of the Internal Revenue Code of 1986, as amended by the Coal Industry Retiree Health benefit Act of 1992.

Article II B. (1) and (4) of the 1998 Employer Benefit Plan provides:

#### ARTICLE II ELIGIBILITY

##### B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows:

- (1) Any Pensioner who is not again employed in classified signatory employment subsequent to
    - (a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and
    - (b) December 31, 1997, shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this Plan. Notwithstanding (i) and (ii) of the definition of Pensioner in Article I (5) of this Plan, any such Pensioner who was eligible for benefits under the 1974 Benefit Plan as a Pensioner on December 5, 1977, shall be eligible for such benefits subject to all other provisions of this Plan.
- \* \* \*
- (4) Health benefits shall not be provided during any month in which the Pensioner is regularly employed at an earnings rate equivalent to at least \$1,000 per month.

Discussion

Article XX (c)(3)(i) of the 1998 Wage Agreement requires a signatory Employer to establish and maintain an Employee benefit plan to provide health and other non-pension benefits for its Pensioners whose last classified employment was with such Employer. It further states that “benefits provided by the Employer. . . shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans. . . .” The Respondent provides health benefits consistent with this Article.

Article II B. of the Respondent’s 1998 Employer Benefit Plan establishes that an individual eligible for pension benefits under the UMWA 1974 Pension Plan is eligible for health benefits coverage under the Plan. The Plan further stipulates that health benefits shall not be provided during any month in which such a pensioner is regularly employed at an earnings rate equivalent to at least \$1,000 per month.

The Complainant was awarded a 1974 Pension Plan Age 55 pension effective March 1, 1998, and is eligible for health benefits coverage. Since September 2002, the Complainant has been ineligible for health benefits coverage because his monthly earnings exceed the earnings limitation of \$1,000 under the Respondent’s 1998 Employer Benefit Plan. In the Complainant’s case, the earnings limitation of \$1,000 will remain in effect as long as the Respondent’s Employer Benefit Plan continues.

The Complainant’s argument that he is entitled to the higher earnings rate because he receives an increased pension payment from the 1974 Pension Trust under the 2002 Wage Agreement, is inapposite. The amount of pension benefits the Complainant receives is governed by the terms of the 1974 Pension Plan, which was amended in accordance with the 2002 Wage Agreement. The Complainant’s health benefits are governed by the terms of the Respondent’s 1998 Employer Benefit Plan in effect during the life of the current wage agreement to which the Respondent is signatory. That wage agreement is the 1998 Wage Agreement. Furthermore, the fact that the Respondent has other operations that are signatory to the 2002 Wage Agreement is irrelevant. The agreement to which the Complainant’s last signatory operator is signatory is the 1998 Wage Agreement, and that agreement and the terms of the corresponding Benefit Plan remain in effect.

Opinion of the Trustees

The earnings limitation of \$1,000 remains in effect as long as the Respondent’s 1998 Employer Benefit Plan continues.