

Benefit Plan as of February 1, 1993, including claims or obligations based on the “evergreen” clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3051.)

Subchapter C—Health Benefits of Certain Miners

- Part
- I. Individual employer plans.
- II. 1992 UMWA benefit plan.

PART I—INDIVIDUAL EMPLOYER PLANS

- Sec.
- 9711. Continued obligations of individual employer plans.

§ 9711. Continued obligations of individual employer plans

(a) Coverage of current recipients

The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual’s eligible beneficiaries which is substantially the same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

(b) Coverage of eligible recipients

(1) In general

The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual’s eligible beneficiaries which is described in paragraph (2). This paragraph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

(2) Coverage

Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

(c) Joint and several liability of related persons

(1) In general

Except as provided in paragraph (2), each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

(2) Liability limited if security provided

If—

(A) security meeting the requirements of paragraph (3) is provided by or on behalf of—

- (i) any last signatory operator which is an assigned operator described in section 9704(j)(2), or
- (ii) any related person to any last signatory operator described in clause (i), and

(B) the common parent of the controlled group of corporations described in section 9704(j)(2)(B) is jointly and severally liable for the provision of health care under this section which, but for this paragraph, would be required to be provided by the last signatory operator or related person,

then, as of the date the security is provided, such common parent (and no other person) shall be liable for the provision of health care under this section which the last signatory operator or related person would otherwise be required to provide. Security may be provided under this paragraph without regard to whether a payment was made under section 9704(j).

(3) Security

Security meets the requirements of this paragraph if—

- (A) the security—
 - (i) is in the form of a bond, letter of credit, or cash escrow,
 - (ii) is provided to the trustees of the 1992 UMWA Benefit Plan solely for the purpose of paying premiums for beneficiaries who would be described in section 9712(b)(2)(B) if the requirements of this section were not met by the last signatory operator, and
 - (iii) is in an amount equal to 1 year of liability of the last signatory operator under this section, determined by using the average cost of such operator’s liability during the prior 3 calendar years;
- (B) the security is in addition to any other security required under any other provision of this title; and
- (C) the security remains in place for 5 years.

(4) Refunds of security

The remaining amount of any security provided under this subsection (and earnings thereon) shall be refunded to the last signatory operator as of the earlier of—

- (A) the termination of the obligations of the last signatory operator under this section, or
- (B) the end of the 5-year period described in paragraph (4)(C).¹

¹ So in original. Probably should be “paragraph (3)(C).”