

120,000 coal miners face loss of retirement benefits

By Clement Daly
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Some 120,000 retired union coal miners and their families are at risk of losing their health care and pensions in the coming months.

The growing insolvency of the various health and retirement funds overseen by the United Mine Workers of America (UMWA) is rooted in the continuing global economic crisis and the resulting collapse of commodities prices, which has led to a string of coal operator bankruptcies, slashed production, and mass layoffs throughout the coal regions.

At immediate risk are health care benefits for 22,600 retired coal miners from Patriot Coal in West Virginia, Indiana, Illinois, Kentucky, and Ohio. The Patriot Retirees Voluntary Employees' Beneficiary Association (VEBA) has already sent letters to about 16,100 retired miners informing them that due to critical funding shortages, their health care benefits will be discontinued as of December 31, 2016. Another 6,500 retirees will lose benefits early next year.

The insolvent VEBA plan for the Patriot retirees was brokered between the company and the UMWA following Patriot's Chapter 11 bankruptcy in July 2012. Unable to reach an agreement on sufficient concessions from the UMWA after months of closed-door negotiations, the bankruptcy court approved Patriot's reorganization plan in May 2013, granting the company permission to scrap its collective bargaining agreement with the union, and permitting Patriot to cease providing health care to its retirees.

The 2012 Patriot bankruptcy occurred at the beginning of the downturn in the coal industry, which has since transformed into a general collapse. That Patriot was the first of the major coal operators to fall victim to the crisis, however, was no accident, but was deliberately prepared over the course of the last decade.

Patriot was created by Peabody Energy in 2007 as a means of shedding mounting legacy liabilities associated with its union operations east of the Mississippi. Upon its creation, the mining giant sold Patriot 13 percent of its assets, but burdened it with about 40 percent of its health care

liabilities.

In 2008, Patriot purchased Magnum Coal—a similar spinoff of union operations carried out by Arch Coal in 2005—which transferred about 12 percent of Arch's former assets along with 97 percent of its retiree health care liabilities. Both deals left Patriot with more than three times as many retirees than active miners, more than 90 percent of them having never worked a day for the young company.

The UMWA put up no serious resistance to the formation of these shell companies and limited its response to the assault on its members' living standards to impotent protest stunts, rallies, and a public relations campaign aimed at pressuring the mining companies involved for concessions.

In October 2013, the UMWA, Patriot, and Peabody reached a global settlement that allowed Patriot to cease its contributions towards retiree health care and transfer these obligations to a union-controlled VEBA. The deal was modeled closely on the VEBA set up between the United Auto Workers and the Detroit Big Three automakers.

From the start, the settlement left the Patriot VEBA woefully underfunded, securing a little more than \$400 million from the two companies over the next four years, or about one-fourth of the \$1.6 billion the union estimated was needed for the long-term funding of retiree health care, which currently costs about \$8 million a month.

The UMWA's concessions, however, proved not enough to return Patriot to profitability as the crisis in the coal industry only deepened.

In May 2015, Patriot filed for bankruptcy again, this time selling the majority of its assets to Blackhawk Mining and transferring its remaining assets and liabilities to an affiliate of the Virginia Conservation Legacy Fund. In its approved bankruptcy plan of October 2015, Patriot and Blackhawk escaped obligations for retiree health care and exited the 1974 UMWA Pension Plan with Blackhawk only agreeing to assume liabilities for any active UMWA miners it rehired at its operations.

In the wake of the Patriot deal, Peabody went into court arguing that Patriot's shedding of its obligations to retiree

health care voided the global settlement reached in October 2013. Having paid out only \$165 million of \$310 million it agreed to, Peabody reached an agreement with the UMWA in January 2016 to pay only \$75 million of its remaining \$145 million to the Patriot VEBA. Peabody then filed its own bankruptcy petition in April 2016 from which it has yet to emerge.

Alpha Natural Resources also followed Patriot's lead, declaring bankruptcy in August 2015. The company won approval to sell its most profitable assets in West Virginia, Virginia, Pennsylvania, and Wyoming 11 months later to a newly created Contura Energy. Its remaining operations were consolidated in a reorganized Alpha.

As part of its restructuring, the court granted Alpha permission in May 2016 to break its contract with about 610 active UMWA miners and cease further contributions for union retiree health care benefits to about 2,600 retired miners, as well as escape from its obligations to the 1974 UMWA Pension Plan.

A subsequent union contract reached in July 2016 with both Alpha and Contura covering 900 miners did not include either retiree health care or pension provisions. Instead, the two companies contributed lump sum payments totaling \$28.5 million to a separate union-controlled VEBA, funding Cecil Roberts admitted "would not last long," considering Alpha had complained about spending nearly \$53 million on union health care in 2015 alone.

In addition to the imminent risk to the various UMWA retiree health care plans, the union is warning that its pension plans also face insolvency after recording large losses due to the 2008 economic crash and the growing list of coal operators using the bankruptcy courts to discharge existing liabilities and end future contributions. According to the union, contributions to the 1974 Pension Plan have fallen by two-thirds over the past year.

The UMWA pension funds currently support about 89,000 miners or family members with an average monthly payout of \$560, in addition to another 22,000 coal miners who are vested but not yet receiving benefits. If the fund collapses, these liabilities will be assumed by the federal Pension Benefit Guarantee Corporation and will likely be subject to deep cuts.

What is under way is an historic assault on benefits and living standards won through bitter struggles waged by generations of coal miners. The UMWA Health and Retirement Funds has its origin in the massive strike wave conducted by American workers at the close of World War II. In addition to strikes in auto, steel, railroads, meat packing, and other industries, the coal miners waged a series of powerful strikes, some in defiance of back-to-work orders from both the union bureaucracy and the White House, to

secure the UMWA Funds in agreements signed in 1946 and 1950.

However, under the leadership of the nationalist and pro-capitalist John L. Lewis, the union tied funding for the UMWA Funds to royalty payments exacted from the coal operators for every ton of coal mined, thus binding the fate of the coal miners to the health of the US coal industry and American capitalism in general. In exchange for the UMWA Funds, Lewis agreed to support the coal industry's mechanization of the mines—at the cost of hundreds of thousands of mining jobs over the subsequent decades—believing the increased efficiency would lead to increased coal production and thus stable benefits flowing to a slimmed workforce.

In reality, however, the contradiction of this funding mechanism ensured that the UMWA Funds remained chronically underfunded with the union limiting benefits and resisting royalty increases in order to safeguard the health of the coal industry and the solvency of the programs. Now, under conditions of protracted crisis, the coal operators are moving to scrap what remains of these limited health and pension benefits.

In line with the UMWA's strategy of protecting the profitability of the US coal industry, the union has turned to Congress for a bailout of its insolvent retiree health care and pension plans. It is backing passage of the Coal Miners Protection Act which would allow about \$220 million of the approximately \$490 million a year in general tax dollars which flow into the Abandoned Mine Lands program for abandoned mine cleanup to be diverted into the UMWA retiree benefit programs over the next decade.

While the legislation currently has bipartisan support, some Republican legislators are opposed to the move claiming it aids only retired union coal miners while doing nothing to insure the benefits of non-union retirees.

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