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## OPINION OF TRUSTEES

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### In Re

Complainant: Surviving Spouse  
Respondent: Employer  
ROD Case No: 73 - January 16, 1980

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee;  
Paul R. Dean, Trustee.

Pursuant to Article IX of the United Mine Workers of America 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of pregnancy benefits for the surviving spouse of an Employee and hereby render their opinion on the matter.

### Background Facts

The Employee began employment with an Employer signatory to the NBCWA of 1978 on October 13, 1978 and was employed at the time the Respondent Employer, also a signatory, purchased the mine from the original Employer and assumed operation of the mine, February 1, 1979. The Employee was killed in a mining accident on March 14, 1979 while working for the Respondent Employer.

The Employee and his wife were covered by the benefit plan of the first Employer from October 13, 1978 until the mine was sold, February 1, 1979. The Respondent Employer provided coverage beginning February 1, 1979 and on April 30, 1979 transferred the Employee's surviving spouse to another coal company group insurance plan, advising that all employees had been laid off and group coverage was not possible for one person.

The Employee's wife was pregnant at the time he began employment with the first Employer, October 13, 1978. The child was born June 21, 1979 and payment of maternity and obstetrical services has been denied by the insurer.

### Question or Dispute

Is the Respondent Employer responsible for payment of the maternity and obstetrical services rendered the Employee's wife in June, 1979?

### Positions of the Parties

The representative of the surviving spouse has raised the question concerning coverage. The Employer's insurer bases denial of coverage on paragraph (10) (e) of the General Description of Health and Retirement Benefits contained in Article XX of the NBCWA of 1978 which states that, in the case of new Employees, benefit will not be provided for pregnancies which occur prior to the first day of employment (This section also states: "All other benefits are covered").

Pertinent Provisions

- (1) Article II A (1)(h) and III A (3)(c) of the Employer's Plan, which provide that maternity and obstetrical care will be provided if the pregnancy commenced on or after the date of the Beneficiary's eligibility for benefits under the plan.
- (2) The Pregnancy Discrimination Act of 1978.

Discussion

As provided in Article III A(1)(h) and III A(3)(c), the Employer's benefit plan is not responsible for payment of the maternity and obstetrical services for the Employee's surviving spouse as the pregnancy commenced prior to the date of the Beneficiary's eligibility under the plan. However, under the terms of the Pregnancy Discrimination Act, plans which provide coverage for pre-existing conditions may not exclude coverage only for pre-existing pregnancies. There are no exclusions under the Employer's plan for any conditions except pregnancy, which is outlined in Article III A(h) and III A(3)(c) referred to in the foregoing. Therefore, coverage for pregnancies which existed prior to a Beneficiary's becoming eligible under the Employer's benefit plan must be provided if the Beneficiary is eligible at the time of delivery. The effective date of the Act, as it affects the Employer health and benefit plans, is April 29, 1979; therefore, plans must provide benefits mandated by the Act for services rendered after that date. In the instant case, since the plan had no exclusions for conditions other than pregnancy and the services were rendered in June, 1979, after the effective date of the Act, it would appear that the Employer's plan should provide coverage.

Opinion of the Trustees

In the opinion of the Trustees, the terms of the Employer's benefit plan, as adopted March 27, 1978, do not require coverage for the maternity and obstetrical services received by the Employee's surviving spouse. However, because the plan must conform to the provisions of the Pregnancy Discrimination Act of 1978, such coverage is provided.