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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-301 - November 28, 1983

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 ("UMWA") 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 health benefits coverage for an Employee by the Employer's Benefit Plan and hereby render their opinion on the matter.

### Background Facts

The Complainant states that he was employed by the Respondent from May 1982 through August 1982. UMWA Health and Retirement Funds' records show that the Respondent, signatory to the National Bituminous Coal Wage Agreement of 1981, reported hours worked for the Complainant for each month beginning May 1982 through September 1982. The Complainant's spouse became pregnant in October 1981. On or about June 9, 1982, the Complainant's spouse incurred obstetrical and hospital charges. The Respondent provided health benefits coverage for the Complainant effective July 1, 1982. The coverage was terminated July 31, 1982, by the insurance carrier due to non-payment of premiums by the Respondent. The obstetrical and hospital charges incurred by the Complainant's spouse were not paid by the Employer's Benefit Plan. Information submitted by the Complainant includes a letter he received from the Employer's insurance carrier indicating that it would not have paid the spouse's charges because, under its policy, maternity and obstetrical charges are paid only after the policy has been in effect for nine (9) consecutive months.

### Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant's spouse's obstetrical and hospital charges incurred on or about June 9, 1982?

### Positions of Parties

Position of Complainant: The Complainant claims that the applicable Employer's Benefit Plan imposes liability for the provision of maternity benefits on the employer at the time of the child's birth rather than the employer of record at the time of the child's conception.

Position of Respondent: The Respondent has not replied to our correspondence.

Pertinent Provisions

Article I (I), (2), (4) and (7) of the Employer's Benefit Plan provide:

Article I - Definitions

The following terms shall have the meanings herein set forth:

1. "Employer" means (coal company)
2. "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1981, 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.
7. "Dependent" shall mean any person described in Section D of Article II hereof.

Article II A (4) and 0 (1) and (2) of the Employer's Benefit Plan provide:

Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

- A. Active Employees
  - (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

D. Eligible Dependents

Health benefits under Article III shall be provided to the following members of the family of any Employee, Pensioner, or disabled Employee receiving health benefits pursuant to paragraph A, B, or C of this Article III:

1. A spouse who is living with or being supported by an eligible Employee or Pensioner;

2. Unmarried dependent children of an eligible Employee or Pensioner who have not attained age 22;

Article III A 3(c) of the Employer's Benefit Plan provides:

Article III - Benefits

A. Health Benefits

3. Physicians' Services and Other Primary Care.

(c) Obstetrical Delivery Services

Benefits are provided for a female Beneficiary for obstetrical delivery services (including pre- and post-natal care) performed by a physician. Benefits will also be provided if such delivery is performed by a midwife certified by the American College of Nurse Midwifery and" licensed where such licensure is required.

Such benefits will also be provided for termination of pregnancy but only if medically necessary and is so certified to and such services are performed by a licensed gynecologist or a surgeon.

Discussion

The Respondent has not answered correspondence from the Trustees. This opinion is therefore based on information submitted by the Complainant as well as other information available to the Trustees.

Under Article II of the Employer Benefit Plans, an Employee and his eligible dependents, including his spouse, are eligible for benefits coverage from the Employee's first day worked throughout his entire period of employment with a signatory Employer. The Complainant has stated that he was employed by the Respondent from May through August 1982. UMWA Health and Retirement Funds' records indicate that the Respondent reported work hours for the Complainant for the period May through September 1982. Therefore, the Complainant's spouse was eligible for benefits coverage at the time she received obstetrical and hospital services related to the delivery of her child.

The only remaining question is whether the services are a covered benefit under the terms of the Employer Benefit Plans. Under Article III.A. (3) (c) of the Employer Benefit Plans, benefits are

provided for obstetrical delivery services, including pre- and post-natal care, if performed by a physician or a certified and licensed midwife. Therefore, the obstetrical and hospital charges incurred by the Complainant's spouse are a covered benefit which the Respondent is required to provide under his Employer's Benefit Plan.

Information submitted by the Complainant includes a statement by the Respondent's insurance carrier that the policy purchased by the Respondent would not have provided benefits for the spouse's maternity and obstetrical services, because the policy was not in effect for nine consecutive months when the services were received. The fact that the terms of a policy purchased by an Employer may differ from the terms of the Employer Benefit Plan, which the Employer is required to maintain pursuant to Article II (c) (3) (i) of the 1981 Wage Agreement, would not relieve the Employer of his obligation to provide benefits in accordance with the terms of the Employer Benefit Plans.

#### Opinion of Trustees

The Trustees are of the opinion that the Respondent is responsible for the provision of maternity benefits for the Complainant's spouse.