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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 02-013 - February 1, 2005

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 the Employer Benefit Plan.

Background Facts

The Complainant has been eligible for health benefits coverage from the Respondent as an active Employee since September 2003. The Complainant's daughter gave birth on June 20, 1997, to an illegitimate daughter. The Complainant's daughter and granddaughter reside with the Complainant. The father of the granddaughter is unknown. The Complainant's daughter receives Supplemental Security Income benefits from the Social Security Administration and is not employed. The Complainant submitted a court order dated September 22, 1997, which states that the Complainant and his spouse have custody and control of his granddaughter. The Complainant also submitted a copy of his 2002 Federal Income Tax Return which indicates that he claimed his granddaughter as a dependent.

The Respondent has denied health benefits coverage for the Complainant's granddaughter.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant's granddaughter?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant's granddaughter because he provides all his granddaughter's support.

Position of the Respondent: The Respondent has not responded to numerous requests from Funds' staff for its position in this matter.

Pertinent Provisions

Article I (1), (2), (4) and (7) of the Employer Benefit Plan provide:

Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (Employer's Name).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 2002, 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 D. (4) of the Employer Benefit Plan provides:

Article II - Eligibility

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

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 paragraphs A, B, or C of this Article II:

\* \* \*

- (4) Unmarried dependent grandchildren of an eligible Employee, Pensioner or spouse who have not attained age 22 and are living in the same household (residence) with such Employee or Pensioner;

For purposes of this paragraph D, a person shall be considered dependent upon an eligible Employee, Pensioner or spouse of such Employee, Pensioner, or spouse provides on a regular basis over one-half of the support to such person.

Q&A H-2 (81) provides in pertinent part:

H-2 (81)

Subject: HEALTH BENEFITS; Dependency Determination, Support

Reference: (50B) II C; (74B) II C

Question:

What are the guidelines for determining the eligibility of persons for health benefits as dependents of disabled employees and pensioners?

Answer:

In general, a person is considered dependent on a participant if the participant regularly provides over one-half of the person's support. Support includes the fair rental value of lodging, reasonable cost of board, clothing, miscellaneous household services and education expenditures, excluding scholarships. Support is not limited to necessities.

Support is regular if it is provided on a yearly basis.

Guidelines for determining dependency of family members of participants for health benefit coverage purposes are as follows:

\* \* \*

- (4) Unmarried dependent grandchildren who have not attained age 22: The test for dependency is the same as that for other children, as described in paragraph (2) above, except that the grandchildren must be living in the same household (residence) as the participant unless attending school as full-time students.

\* \* \*

### Discussion

Article II D. (4) of the Employer Benefit Plan provides health benefits coverage for the unmarried dependent grandchildren of an eligible Employee or spouse, so long as the grandchildren have not attained age 22 and are living in the same household with such Employee. Article II D. further states that a person shall be considered dependent upon an eligible Employee if such Employee provides on a regular basis over one-half of the support to such person. In Question and Answer (Q&A) H-2 (81), the Trustees stated that a person is considered a dependent of a participant if the participant regularly provides over one-half of the person's support. Support includes the fair rental value of lodging, reasonable cost of board, clothing, miscellaneous household services and education expenditures, excluding scholarships. Support is not limited to necessities.

To establish that his granddaughter is his dependent, the Complainant submitted a copy of his 2002 Federal Income Tax Return on which he listed his granddaughter as a dependent and a copy of a court order indicating that he and his spouse have custody of his grandchild.

In ROD 84-010, the Trustees found that the Employer “may request documentation of dependency and that the most recent Federal Income Tax Return is among the forms of documentation that are ‘reasonably available.’” The Trustees had been asked whether an Employer may request certain information as proof of dependency and whether there should be a presumption of dependency for young children. The Trustees determined that an Employer “may request documentation of dependency and that the most recent Federal Income Tax Return is among the forms of documentation that are “reasonably available.” They also determined that when reviewing the dependency of young dependent children, presentation of a “valid birth certificate establishing that the child is the Employee’s natural child and a valid marriage certificate establishing that the Employee and spouse are married,” along with a written statement that the child is a dependent is “normally adequate to establish the dependency of a young child.”

In the present case, the grandchild’s birth certificate indicates that she is a young child. As proof of dependency, the Complainant has provided the Respondent with a court order that has granted full custody of the grandchild to the Complainant and his spouse, and a Federal Income Tax Return that show they claim her as a dependent.

### Opinion of the Trustees

The Trustees find that the documentation provided is sufficient evidence to establish that the Complainant’s granddaughter is his dependent. Therefore, the Respondent is required to provide coverage for the Complainant’s granddaughter under Article II D. (4) of the Employer Benefit Plan.

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