
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 02-019 – September 14, 2005

Trustees: Micheal W. Buckner, A. Frank Dunham, Michael H. Holland, 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 claims that his daughter is eligible for health benefits coverage as a disabled adult. According to the Complainant, his daughter, whose date of birth is April 16, 1979, was involved in an automobile accident on January 16, 1995. The Complainant's daughter was awarded Social Security Supplemental Income (SSI) as a Disabled Individual effective September 1999. To support his claim, the Complainant submitted a statement from the Complainant's daughter's physician dated October 2003 and medical information dated June 2002.

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

Dispute

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

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant's daughter because she meets the eligibility requirements as a disabled adult to receive coverage under the Employer Benefit Plan.

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 2002 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. (5) 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:

* * *

- (5) Dependent children (of any age), of an eligible Employee, Pensioner or spouse, who are mentally retarded or who become disabled prior to attaining age 22 and such disability is continuous and are either living in the same household with such Employee or Pensioner or are confined to an institution for care or treatment. Health benefits for such children will continue as long as a surviving parent is eligible for health benefits.

For purposes of this paragraph D, a person shall be considered dependent upon an

eligible Employee, Pensioner or spouse if 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:

* * *

- (5) Disabled children of any age: The test for dependency is the same as that for other children . . . except that disabled children who are incapable, because of disability or mental retardation, of living or functioning independently of the parents are eligible, regardless of the amount of support furnished, if such children are either living in the same household (residence) as the participant or are confined to an institution for care or treatment.

Question and Answer (Q&A) H-6 (81) (part 1) provides:

Subject: HEALTH BENEFITS; Disabled Children H-6 (81)

Reference: (50B) II C(5), II D; (74B) II C(5), II D

Question:

Certain dependent children (of any age) are eligible for health benefits if they are mentally retarded or become disabled prior to attaining age 22 and such disability is continuous.

- (1) What is the standard for determining whether the dependent child is "mentally retarded or disabled"?

Answer:

- (1) A person is "mentally retarded or disabled" if the person has any professionally determinable physical, mental, or psychological impairment which precludes the person's living or functioning independently of his/her parent(s) or an institution.

Discussion

Article II D. (5) of the Employer Benefit Plan stipulates that health benefits coverage will be provided to dependent children of any age who are mentally retarded or who become disabled prior to attaining age 22, and whose disability is continuous. Q&A H-6 (81) provides that "a person is mentally retarded or disabled if the person has any professionally determinable physical, mental, or psychological impairment which precludes the person's living or functioning independently of his/her parent(s) or an institution."

The Complainant's daughter became disabled prior to attaining age 22. Her disability is continuous, and she has never lived independently of her parents. Furthermore, the Complainant's daughter has been awarded Supplemental Security Income ("SSI") benefits based on a disability. Under the Social Security Act, an individual is considered disabled if "he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." (42U.S.C. §1382c (3)(A)).

The Funds' Medical Director reviewed the information submitted by the Complainant and also reviewed the Complainant's daughter's SSI medical records. He concluded that the Complainant's daughter is unable to live alone and is dependent on her parents for financial support as well as needing help with some of her activities of daily living.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant's daughter as a disabled adult dependent subject to the requirements of Article II D. (5) of the Employer Benefit Plan.