
OPINION OF TRUSTEES

In Re

Complainant: Surviving Adopted Grandchildren of a Deceased Pensioner
Respondent: Employer
ROD Case No: 07-0055 – October 7, 2011

Trustees: Micheal W. Buckner, Daniel L. Fassio, Morris D. Feibusch, and Michael H. Holland.

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 Complainants, currently aged 17 and 18, were adopted by a Pensioner and his spouse in 2000. Prior to the adoption, the Complainants were dependent grandchildren of the Pensioner and his spouse and were being provided health benefits coverage by the Respondent. The Pensioner died in 2007, at which time his surviving spouse was awarded a Surviving Spouse Pension, and health benefits were continued for her and the Complainants. The surviving spouse died in November 2009 at which time the Respondent terminated the Complainants' health benefits.

Dispute

Is the Respondent required to provide health benefits coverage for the adopted children of the deceased Pensioner and his deceased surviving spouse?

Positions of the Parties

Position of the Complainant: The Complainants meet eligibility requirements for health benefits coverage because the surviving spouse was eligible for health benefits under Article II.E(2) of the Employer Benefit Plan.

Position of the Respondent: The Complainants do not meet eligibility requirements for health benefits coverage because at the time the benefits were terminated they were no longer dependents of the Pensioner or his surviving spouse.

Pertinent Provisions

Article II. E. of the Employer Benefit Plan states in pertinent part:

E. Surviving Spouse and Dependents of Deceased Employees or Pensioners

Health benefits under Article III shall be provided to (i) any unmarried surviving spouse (who was living with or being supported by the Employee or Pensioner immediately prior to the Employee's or Pensioner's death) and (ii) such spouse's unmarried surviving dependent children as defined in [subsection] (2) ... of section D, of an Employee or Pensioner who died:

- (1) As a result of a mine accident...
- (2) Under conditions which qualify such spouse for a Surviving Spouse benefit under the 1974 Pension Plan or any successor thereto;
- (3) At a time when such Employee or Pensioner is entitled to receive health benefits pursuant to section A, B, or C of this Article II, provided that (i) if such Employee or Pensioner died prior to the effective date of the Wage Agreement and the spouse is not eligible for a Surviving Spouse's benefit...or, (ii) if such Employee or Pensioner died on or after the Effective Date of the Wage Agreement and the spouse is not eligible for a Surviving Spouse's benefit...then only for 60 months following the month of the death of such Employee or only for 22 months following the month of the death of such Pensioner....

* * *

The unmarried, dependent children of a Surviving Spouse eligible under (2) above shall be eligible for health benefits until they attain age 22, so long as the Surviving Spouse is eligible for benefits....

Discussion

The Pensioner was receiving a service pension at the time of his death, and his surviving spouse received a Surviving Spouse benefit. Therefore, Article II.E.(2) of the Employer Benefit Plan applies when establishing eligibility for health benefits coverage for the Complainants. As stated in Article II. E., the unmarried, dependent children of a Surviving Spouse shall be eligible for health benefits until they attain age 22, so long as the Surviving Spouse is eligible for benefits. When the surviving spouse died, her health benefits were terminated. Therefore, the Complainants are no longer eligible for health benefits.

The health benefits status of the surviving children once the surviving spouse dies was addressed by the Trustees in Q&A H-15(81), which determined that the children become ineligible for health benefits as of the date of the surviving spouse's death, unless the mineworker died as a result of a mine accident or a death benefit was payable. Neither of those circumstances are present here.

Under the provisions of the Employer Benefit Plan, the Complainants were no longer eligible for health benefits upon the death of the surviving spouse. The Respondent is obligated to provide the Complainants with information regarding continuation coverage under COBRA when notifying the Complainants that their benefits are being terminated.

Opinion of the Trustees

The Respondent is not required to provide health benefits coverage to the Complainants, but is required to provide information to continue health coverage under COBRA.