

---

## OPINION OF TRUSTEES

---

### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 5 - October 23, 1979

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 health benefits to an Employee prior to the effective date of the NBCWA and hereby render their opinion on matter.

### Background Facts

The Employee was employed by an Employer signatory to the National Coal Mine Construction Agreement of 1978 (NCMCA) in July 1978 at which time his wife became pregnant. He voluntarily terminated his employment with that Employer on October 20, 1978 and on October 23 began working for an Employer signatory to the National Bituminous Coal Wage Agreement of 1978 (NBCWA); he continued with that Employer until August 1979. The Employee's wife delivered in April 1979 and neither Employer has assumed responsibility for payment of the bills incurred.

### Question of Dispute

Is either Employer responsible for payment of the maternity and obstetrical services incurred by the Employee's wife in April 1979?

### Pertinent Provision

The following provision of the benefit plan of the Employer signatory to the NBCWA of 1978 is pertinent:

Article III A(1)(h) Maternity Benefits: "Benefits are provided for a female Beneficiary who is confined in a hospital for pregnancy, provided such pregnancy commenced on or after the date of the Beneficiary's liability for benefits under this plan."

### Discussion

The exemption granted by the Department of Labor permits the Trustees of the UMWA Health and Retirement Funds to assist in resolving dispute concerning benefits under plans established by Employers signatory to the NBCWA of 1978, pursuant to Article XX of that Agreement. The exemption does not extend to benefit plans established pursuant to the NCMCA of 1978.

Accordingly, consideration of the issue presented here will be limited to the provisions of the plan established by the Employer signatory to NBCWA of 1978. Disputes concerning benefits under plans established pursuant to the NCMCA of 1978 may be submitted to the Trustees of the Retired Construction Workers Benefit Plan, as provided in that Agreement.

In this instance, since the Employee's wife became pregnant in July 1978 prior to the date of her eligibility for benefits under the plan of the Employer signatory to the NBCWA of 1978, she is not eligible for coverage under that Employer's plan for the maternity and obstetrical services provided in April 1979.

Opinion of the Trustees

The Trustees are of the opinion that the Employer signatory to the NBCWA is not responsible for payment of the maternity and obstetrical services incurred by the Employee's wife.