

April 29, 1985

(Opinion issued in letter form; name and address deleted)

Re: Resolution of Dispute
Case Number: 84-013

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 coverage by the Employer under the Employer Benefit Plan for the grandchild of a pensioner under the terms of the National Bituminous Coal Wage Agreement of 1984. The Trustees hereby render their opinion on the matter.

According to the information provided, the above named 1974 Plan Pensioner maintained a residence for himself and his fifteen year old grandson prior to the Pensioner's being injured in an automobile accident in April 1984. As a result of injuries sustained in the accident, the Pensioner was declared "incompetent" and has since been confined to a nursing home. The Pensioner's sister, who has been appointed his legal representative, has stated that he will probably never recover sufficiently to live outside an institutional setting without constant supervision.

Since the Pensioner's accident, his minor grandson has been placed under the guardianship of friends of the family and is residing with them.

Following the expiration of the Pensioner's health services identification card on September 30, 1984, the grandchild's guardian contacted the Employer to request a new card. He was advised by the Employer that the grandchild was no longer eligible for benefits coverage because he did not reside in the same household (residence) as the Pensioner and therefore failed to satisfy the eligibility requirements for a dependent.

After unsuccessfully appealing this decision to the Employer's Plan Administrator, you have requested that the Trustees review the facts and issue an opinion in this dispute.

Article II D. (4) of the Employer Benefit Plan states that health benefits shall be provided to 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.

Although the Pensioner's grandchild was residing with him at the time of the Pensioner's accident, the information provided to the Trustees indicates that the Pensioner's physical condition makes his placement in a nursing home permanent. The grandchild's change in residence and the designation of family friends as guardians further implies that the change in

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residence is permanent. Because the Pensioner's grandson is not living in the same household (residence) as the Pensioner, and has been placed under the guardianship of friends, he does not meet the residency requirements stated in Article II D. (4). It is, therefore, unnecessary for the Trustees to address the additional question of dependency.

Accordingly, it is the opinion of the Trustees that the Employer is not responsible for the provision of health benefits coverage for the Pensioner's grandson.

Sincerely,

Joseph P. Connors, Sr., Chairman

Paul R. Dean, Trustee

William B. Jordan, Trustee

William Miller, Trustee

Donald E. Pierce, Jr., Trustee