
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 84-569 - February 24, 1988

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee;
William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 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 under the terms of the Employer Benefit Plan.

Background Facts

The Complainant is an active mine worker employed in a classified position with the Respondent. The Respondent is providing the Complainant's health benefits coverage as an active Employee. The Complainant asks that his foster son be enrolled as an eligible dependent for the purpose of obtaining health benefits coverage under the Respondent's insurance plan. The Complainant states that he has had custody of his foster son since December 27, 1985, that he provides total support for him and claims him as a dependent for income tax purposes. In addition, the Complainant has submitted a copy of a contract between the Complainant and his spouse and their foster son's natural parents indicating that the Complainant and his spouse have custody and control of the child.

The Respondent states that a foster child is not covered as an eligible dependent under the Employer Benefit Plan.

Dispute

Is the Respondent responsible for providing health benefits coverage for the Complainant's foster son?

Positions of the Parties

Position of the Complainant: Inasmuch as the Complainant has custody of his foster son, provides total support for him and claims him as a dependent for income tax purposes, the Complainant's foster son should be considered an eligible dependent for the purpose of health benefits coverage.

Position of the Respondent: In accordance with the Employer Benefit Plan as interpreted in Q&A H-3(81), a foster child is not covered as an eligible dependent unless he is adopted. Inasmuch as the Complainant has not adopted his foster son, the foster son is not entitled to health benefits coverage under the Employer Benefit Plan.

Pertinent Provisions

Article I (1), (2) and (4) 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 1984, 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 (2) of the Employer Benefit Plan provides:

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.

- (2) Unmarried dependent children of an eligible Employee or Pensioner who have not attained age 22;

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.

Discussion

Under Article II D (2) of the Employer Benefit Plan, health benefits are provided to the unmarried dependent children of an eligible Employee. The issue in this case is whether the Respondent is obligated to provide benefits to the Complainant's dependent foster son. Q&A H-3 (copy enclosed herein) states that a foster child of an Employee does not qualify for health benefits coverage; however, such child may be covered if he is adopted by the Employee. The Complainant does not claim to have adopted his foster son, rather he has been appointed legal guardian. . Because guardianship does not meet the adoption requirement for eligibility, the Respondent is not responsible for the provision of health benefits coverage for the Complainant's dependent foster son.

Opinion of the Trustees

The Respondent is not responsible for providing health benefits coverage for the Complainant's foster son under the terms of the Employer Benefit Plan.