
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-009 - July 21, 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 for the dependent children of divorced Employees under the terms of the Employer Benefit Plan.

Background Facts

The Complainants are active Employees of the Respondent. The Respondent is signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1988.

The Complainants, who have been divorced and have dependent children, contend that the Respondent has terminated health benefits coverage for their dependent children because the Complainants are not contributing at least \$150 per month for their support. The Complainants state that they are required to provide health benefits coverage for their dependent children pursuant to court orders, and do not agree with the Respondent that they must pay \$150 per month, in order to be considered as contributing at least one-half of their children's support.

The Respondent states that in accordance with Article II D. of the Employer Benefit Plan, a person shall be considered a dependent if such Employee provides on a regular basis over one-half of the support to such person. In determining an amount which reasonably represented one-half of a dependent's support, the Respondent states that it referred to ROD 81-679 (copy enclosed herein) in which the Trustees determined that \$150 per month could reasonably be considered to constitute one-half of a child's total monthly support. In order to determine if the Complainants provided over one-half of their dependent's support, the Respondent contends that it requested copies of the Complainants' divorce decrees and 1987 Federal Income Tax Returns.

The Respondent states that the Complainants have not submitted copies of their income tax returns and the divorce decrees submitted do not indicate that the Complainants provide \$150 per month support. Accordingly, the respondent states that it terminated health benefits coverage for the dependents of the Complainants who failed to provide documentation indicating that they provide over one-half of their dependents' support.

The Respondent states that one of the Complainants submitted a notarized statement from the court indicating that he provides over \$150 per month support; therefore, health benefits coverage for this Complainant's dependents has been reinstated.

Dispute

Whether the Complainants are required to submit documentation that they provide over one-half of the support for their dependent children.

Positions of the Parties

Position of the Complainants: The Respondent should provide health benefits coverage for the Complainants' dependent children because the Complainants are required to provide such coverage pursuant to court orders. In addition, it is not mandatory that the Complainants pay \$150 per month support in order to be considered as contributing at least one-half of their children's support.

Position of the Respondent: The Complainants have not submitted documentation indicating that they provide over one-half (or \$150 per month) of their dependents' support; therefore, the Respondent is not responsible for providing health benefits coverage for the Complainants' dependent children.

Pertinent Provisions

Article I (1), (2), (4) and (7) 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 1988, 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:

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;

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

Article II D. of the Employer Benefit Plan states that health benefits coverage under Article III shall be provided to an Employee's unmarried dependent children. Article II D. further states that a person shall be considered dependent upon an eligible Employee if such Employee provides on a regular basis over one-half of the support to such person. In addition, in Question and Answer (Q&A) H-2 (81) (copy enclosed herein), the Trustees stated that a person is considered a dependent of 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.

The issue of the eligibility of children not residing in the participant's household has been addressed by Q&A H-14 (81) (copy enclosed herein). Q&A H-14 (81) states that a participant's children who live with a separated or divorced spouse are eligible for health benefits coverage as long as the participant provides support sufficient to establish their dependency as defined in Q&A H-2 (81), or is under court order to provide such support. A participant under court order to provide health benefits coverage to children residing outside the household must ultimately show that his children meet the criteria for dependency as established in Q&A H-2 (81) in order for them to be considered eligible for health benefits coverage under the Employer Plan.

The Trustees have previously concluded in ROD's 81-300, 84-011, 84-014 and 84-020 that an Employer may require Employees to furnish reasonably available information at reasonable intervals to establish date of birth, marital status and dependency for a spouse or a dependent, and that the Employer should allow an adequate period of time for the Employee to submit the required documentation. Therefore, in order for the Complainants' dependent children to be considered dependents under the Employer Benefit Plan, the Complainants must provide sufficient documentation to demonstrate that the support they provide for each of their children constitutes more than one-half of the total monthly support necessary for each child. However, the Respondent must determine on a case-by-case basis whether the support each Complainant

provides constitutes more than one-half of the total monthly support for each child. In ROD 81-679, the Trustees concluded that monthly court-ordered support payments of \$150 constituted over one-half of the total monthly support for the dependent in that particular case. That determination is applicable to ROD 81-679 only and can not be used as a uniform standard for determining what constitutes one-half of a dependent's total monthly support.

Absent sufficient proof of dependency, the Respondent is not responsible for providing health benefits coverage for the Complainants' dependent children. However, the Respondent should determine on a case-by-case basis whether the support the Complainant provides constitutes more than one-half of each dependent's monthly support.

Opinion of the Trustees

Absent sufficient proof of dependency, the Respondent is not responsible for providing health benefits coverage for the Complainants' dependent children. However, the Respondent should determine on a case-by-case basis whether the support the Complainant provides constitutes more than one-half of each dependent's monthly support.