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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-087 - May 23, 1989

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 an Employee's son under the terms of the Employer Benefit Plan.

### Background Facts

The Complainant is employed by the Respondent in a classified position. The Complainant's son, who was born on October 29, 1962, was covered as a dependent under the Respondent's Benefit Plan until October 29, 1984, when he attained age 22 and his coverage was terminated.

The representative for the Complainant contends that the Complainant's son is entitled to health benefits coverage beyond age 22 because he became disabled prior to attaining age 22 and his disability is continuous. Medical reports submitted indicate that the Complainant's son has been treated for mental illness, on both an inpatient and outpatient basis, since 1981. The Complainant's son has never lived independently of his parents. His treating physicians have stated that, as a result of his chronic psychiatric condition, he is dependent on his family and is unable to perform gainful employment. In addition, a report from the Social Security Administration office indicates that the Complainant's son has been receiving Supplemental Security Income (SSI) benefits based on a disability onset date of April 25, 1983. The Complainant's representative states that the Complainant's son is unable to seek or hold gainful employment.

The Respondent has refused to provide health benefits coverage for the Complainant's son as a disabled adult dependent.

### Dispute

Whether the Respondent is required to provide health benefits coverage for the Complainant's son as a disabled adult dependent.

#### Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant's son as a disabled dependent because he became disabled due to mental illness prior to attaining age 22 and remains so disabled.

Position of the Respondent: The Respondent is not required to provide coverage for the Complainant's son because no evidence of disability was submitted at the time coverage was terminated and there is no documentation that the Complainant's son's disability has been continuous since 1981 or that he is unable to function independently of his parents or an institution.

#### Pertinent Provisions

Article II D. (5) 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, 8, or C of this Article II:

- (5) Dependent children (of any age), of an eligible Employee, Pensioner or spouse, who are mentally retarded or who become disabled prior to attaining age 22 and such disability is continuous and are either living in the same household with such Employee or Pensioner or are confined to an institution for care or treatment. Health benefits for such children will continue as long as a surviving parent is eligible for health benefits.

#### Discussion

Article II D. (5) of the Employer Benefit Plan states that health benefits coverage shall be provided to dependent children of any age who became disabled prior to attaining age 22 and whose disability is continuous. Q&A H-6 (81) provides that a person is "disabled" if the person has "any professionally determinable physical, mental, or psychological impairment which precludes the person's living or functioning independently of his/her parent(s) or an institution."

The Employer contends that the Complainant has not demonstrated that his son is disabled. The Complainant's son has been awarded Supplemental Security Income ("SSI") benefits based on a disability. Under the Social Security Act, an individual is considered disabled if "he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment." 42 U.S.C. §1382c (3)(A). Because the Complainant's son was awarded SSI disability benefits, he must have been determined to be unable to engage in substantial gainful activity due to a "medically determinable physical or mental impairment." The Complainant's son's current treating psychiatrist has stated that he suffers from chronic psychosis and that he is completely incapacitated by his illness. Previous treating physicians have also stated that the Complainant's son suffers from a chronic mental illness and that, because of his illness, he is dependent on his parents. The Complainant's son lives with his parents, and he has never lived independently of his parents. Accordingly, the Complainant's son is disabled in that he has a professionally determinable mental impairment which precludes his living or functioning independently of his parents.

The Employer also contends that the Complainant's son was not disabled prior to age 22 (October 29, 1984) and that the disability is not continuous. However, the award of SSI disability benefits identified the disability onset date as April 25, 1983. The Complainant's son's present treating psychiatrist stated that the disabling psychological condition began seven or eight years ago. Moreover, the Complainant's son's condition is a chronic mental illness. He has been treated for that condition since at least 1981. Inasmuch as the Complainant's son has been continuously disabled since before his 22nd birthday, and he is living in the same household as his parents, he meets the criteria for health benefits coverage under the Employer Benefit Plan.

#### Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant's son as a disabled adult dependent subject to the requirements of Article II D. (5) of the Employer Benefit Plan.