
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-162 - June 19, 1990

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 claimed common-law spouse under the terms of the Employer Benefit Plan.

Background Facts

The Complainant has been employed in a classified position with the Respondent since August 1, 1967. On February 25, 1981, the Complainant was granted a divorce. The Respondent, unaware of the Complainant's change in marital status, continued to provide health benefits coverage to the Complainant's ex-wife. On June 1, 1989, after learning of the divorce, the Respondent suspended the Complainant with intent to discharge for misrepresenting and/or falsifying company records and for fraudulently collecting/receiving or causing another to collect benefits.

On June 2, 1989, the Complainant filed a grievance stating that the Respondent failed to show just cause for discharge. The Complainant claimed that his ex-wife is his common-law wife and, as such, she is entitled to health benefits coverage. The Respondent states that the Complainant was unable to demonstrate that he and his ex-wife had maintained a relationship of substantial and continuous duration, that they had been living together openly as married persons and that they are recognized as such in the community, since their divorce. A settlement was reached on June 19, 1989 whereby the Complainant agreed to reimburse the Respondent \$20,497.75 for medical expenses paid on behalf of the Complainant's ex-wife from 1981 through 1989. The Complainant received a 13-day suspension without pay and was allowed to return to work on July 5, 1989. The Complainant paid \$20,497.75 to the Respondent by check dated June 21, 1989.

The Complainant has filed this Request for Resolution of Dispute, stating that he and his ex-wife have lived in the same house for "the majority of the time" since 1981 and continuously since June 1, 1986. He therefore contends that his ex-wife is entitled to health benefits coverage as a

common-law spouse and the Respondent should pay the medical expenses incurred by her since June 1, 1986. In support of his claim, the Complainant has submitted the following documentation: a copy of his divorce decree; notarized statements dated June 2, 1989 from his ex-wife and 3 witnesses stating that the Complainant and his ex-wife have lived together in the manner of a married couple for over one year; copies of savings bonds issued in 1982 payable to the Complainant or his ex-wife; a June 1989 statement from the United Federal Credit Union indicating the existence of an account in the Complainant's name; a copy of a deed executed in 1970 and property tax bills for 1980, 1981, 1984 through 1988, which list the Complainant and his ex-wife as joint owners of property; a statement from a local pharmacy indicating that the Complainant has paid for his ex-wife's prescriptions since July 1989; and copies of cancelled checks signed by the Complainant for payment of telephone bills.

The Respondent states that the Complainant has not provided sufficient documentation to establish the existence of a valid common-law marriage. The Respondent states that the telephone directory lists separate telephone numbers for the Complainant and his ex-wife, which suggests they do not share the same house. The Respondent has submitted a copy of the Complainant's Form W-4 completed by the Complainant on February 48, 1979 on which he listed his marital status as single with no dependents. According to the Respondent, that form has never been changed to reflect a married status. The Respondent states that the Complainant's payments of medical and utility bills for his ex-wife do not establish proof of a common-law marriage. The Respondent also states that it has requested additional information from the Complainant, including federal and state income tax returns for 1981 through 1988; statements indicating the existence of joint bank accounts; and a statement indicating whether they had joint or separate accounts with the local electrical utility. The Respondent states that the Complainant has not provided such information.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant's ex-wife as a common-law spouse?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant's ex-wife as a common-law spouse, because the Complainant and his ex-wife have lived together as husband and wife since June 1, 1986.

Position of the Respondent: The Respondent is not required to provide health benefits coverage for the complainant's ex-wife because the Complainant has not established that a valid common-law marriage exists.

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 A. (1) and 0. (1) of the Employer Benefit Plan provide:

Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

A. Active Employees

Benefits under Article III shall be provide to any Employee who:

- (1) is actively at work* for the Employer on the effective date of the Wage Agreement;

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:

- (1) A spouse who is living with or being supported by an eligible Employee or Pensioner;

* Actively at work includes an Employee of the Employer who was actively at work on January 31, 1988, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

Question and Answer H-1 (81) provides:

Subject: HEALTH BENEFITS; Common-Law Marriage, Children of Common-Law
Marriage

Reference: (50B) II C; (74B) II C

Question:

If a participant enters a common-law relationship, what is the health benefit status of:

- (1) the common-law spouse?
- (2) a 10-year old child, by a former marriage, of the common-law spouse?
- (3) a child born of the common-law marriage?

Answer:

If there is no living spouse of either party in the background, a valid common-law marriage exists if the relationship has been one of substantial and continuous duration and the parties have been living together openly as married persons and are recognized as such in the community.

Assuming a valid common-law marriage has been established, the dependent spouse will be eligible for health benefits and the children will also be eligible if they are dependent on the participant.

Discussion

Article II D. (I) of the Employer Benefit Plan provides health benefits coverage for a spouse who is living with or being supported by an eligible Employee or Pensioner. The issue of the eligibility of a common-law spouse for health benefits coverage has previously been addressed by the Trustees in Q & A H-1 (81). The Trustees stated that, if there is no living spouse of either party in the background, a valid common-law marriage exists if the relationship has been of substantial and continuous duration and the parties have been living together openly as married persons and are recognized as such in the community. The Trustees further stated in ROD 84-256 (copy enclosed herein) that a common-law relationship of substantial and continuous duration is one which has or had continued for a period of not less than nine (9) months. If a valid common-law marriage is established, the dependent spouse will be eligible for health benefits coverage under the Employer Benefit Plan.

The Complainant was granted a divorce in 1981; however, he claims that he and his ex-wife have lived together continuously in a common-law relationship since June 1, 1986. To support his claim, the Complainant has submitted copies of the divorce decree, United States Savings Bonds, a property deed and real estate tax bills, a credit union statement, affidavits from 3

witnesses, a statement from a local pharmacy and cancelled checks the Complainant wrote to pay telephone bills. The real estate tax bills which name both the Complainant and his ex-wife as property holders presumably reflect the parties named in the original deed executed in 1970, when the Complainant and his ex-wife were legally married. Thus, this information appears to be connected to the prior marriage, and it is not indicative of the present relationship between the Complainant and his ex-wife. The Savings Bonds were issued in 1982, at which time the Complainant does not claim a common-law relationship. The credit union statement lists only the Complainant as the account holder. According to the Complainant, the witness statements were submitted by "family members." Thus, they do not establish that the Complainant and his ex-wife are recognized in the community as married persons. The statement from the pharmacy indicates only that the Complainant has paid for his ex-wife's prescription drugs. The cancelled checks made out to the telephone company indicate that the Complainant paid the telephone bill for his ex-wife; however, he and his ex-wife maintain separate telephone listings. The Complainant has listed himself as single with no dependents on his Form W-4 since 1979 and has not submitted copies of any Federal or State income tax returns subsequent to that date to show a change in his claimed filing status.

Based on the above, the Trustees are unable to conclude that the Complainant and his ex-wife have been living together openly as married persons. Therefore, a valid common-law marriage has not been established and the Complainant's ex-wife is not entitled to health benefits coverage under the Employer Benefit Plan.

Opinion of the Trustees

Because the evidence failed to establish the existence of a valid common-law marriage, the Respondent is not required to provide health benefits coverage for the Complainant's ex-wife.