

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-198 - November 28, 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 divorced spouse under the terms of the Employer Benefit Plan.

Background Facts

The Complainant divorced his spouse on August 8, 1988. The Complainant states that his divorced spouse is totally disabled and totally dependent upon him for her support and that he is under court order to assume the divorced spouse's costs. The Complainant contends that because he provides one-half of his divorced spouse's support that she qualifies for health benefits coverage as an eligible dependent under Article II. D. of the Employer Benefit Plan.

The Respondent has denied the Complainant's request for health benefits coverage for his divorced spouse. The Respondent states that an Employee's divorced spouse does not qualify for coverage as an eligible dependent under Article II. D. of the Employer Benefit Plan, even if such spouse is disabled and dependent upon the Employee and the Employee is under court order to provide such support. The Respondent also states that the Complainant's divorced spouse is not eligible for a continuation of coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act ("COBRA") because the Respondent was not notified within 60 days of the divorce, as required under the COBRA regulations.

Dispute

Whether the Respondent is responsible for providing health benefits coverage for the Complainant's divorced spouse under Article II. D. of the Employer Benefit Plan.

Positions of The Parties

Position of Complainant: The Respondent is responsible for providing health benefit coverage for the Complainant's divorced spouse because she is totally disabled and totally dependent upon the Complainant for her support.

Position of the Respondent: A divorced spouse is not an eligible dependent under the Employer Benefit Plan; therefore, the Respondent is not required to provide health benefits coverage for the Complainant's divorced spouse.

#### 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 the Employer, eligible to receive benefits hereunder.
- (7) "Dependent" shall mean any person described in Section D of Article II hereof.

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, B, or C of this Article II:

- (1) A spouse who is living with or being supported by an eligible Employee or Pensioner;
- (2) Unmarried dependent children of an eligible Employee or Pensioner who have not attained age 22;

(3) A parent of an eligible Employee, Pensioner or spouse, if the parent has been dependent upon and living in the same household (residence) with the eligible Employee or Pensioner for a continuous period of at least one year;

(4) 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;

(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.

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. 0. (1) of the Employer Benefit Plan provides health benefits coverage for certain dependents of an eligible Employee, including a spouse who is living with or being supported by the eligible Employee. Article II. D. 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.

The Complainant contends that his divorced spouse is entitled to health benefits coverage because she is totally disabled and he provides over one-half of her support. The divorce decree submitted by the Complainant indicates that his divorced spouse does not possess any education, skills or training which would enable her to obtain gainful employment, and that she suffers from various physical impairments. As a result, the Family Law Master concluded that she was not employable and she was awarded alimony from the Complainant in the amount of \$1,100.00 per month until her death or remarriage. However, the support requirement set forth in Article II. D. applies to those individuals described therein as eligible dependents; Article II. D. does not include a divorced spouse as an eligible dependent. In addition, Q & A H-14(81) (copy enclosed herein) states that a divorced spouse is not eligible for health benefits coverage. The fact that the divorced spouse in this case is not employable and is dependent upon the Complainant for more than one-half of her support does not make her eligible for coverage under the terms of the Employer Benefit Plan. Accordingly, the Respondent is not responsible for providing health benefits coverage for the Complainants divorced spouse.

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