
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-252 - April 25, 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 a disabled dependent of a Pensioner under the terms of the Employer Benefit Plan.

Background Facts

The Complainant and his spouse were divorced in 1982. The Complainant's 40-year-old, mentally retarded daughter has lived with the Complainant's divorced spouse since that time. In August 1989, the Respondent requested documentation of the Complainant's daughter's dependency status. The Respondent notified the Complainant on December 1, 1989 that his daughter is not eligible for health benefits coverage because she does not live with the Complainant, as required by the Employer Benefit Plan. The Respondent terminated health benefits coverage for the Complainant's daughter, effective December 15, 1989.

Dispute

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

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for his disabled daughter, because her disability occurred before age 22 and the Complainant provides over one-half of her support.

Position of the Respondent: The Complainant's disabled daughter is not an eligible disabled dependent as defined by the Employer Benefit Plan because she does not live with the Complainant.

Pertinent Provisions

Article I (1), (2), (5) 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.
- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan.
- (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 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.

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. (5) of the Employer Benefit Plan provides health benefits coverage for dependent children of any age who are mentally retarded or who become disabled prior to attaining age 22, and whose disability is continuous, provided that such disabled dependent children either reside in the same household with the eligible Employee or Pensioner or are confined to an institution for care or treatment. Inasmuch as the Complainant's disabled daughter does not live with the Complainant and is not confined to an institution for care or treatment, she is not entitled to health benefits coverage as a disabled dependent under the terms of Article II D. of the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is not required to provide health benefits coverage for the Complainant's daughter.