
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-312 - October 31, 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 the grandniece of an Employee.

Background Facts

The Complainant is eligible for health benefits coverage from the Respondent as an active Employee. The Complainant's niece was killed in an automobile accident on April 8, 1990, and her four-month old daughter has lived with the Complainant since that time. According to a court document submitted by the Complainant, the Complainant petitioned to adopt his grandniece on May 11, 1990. The court awarded the Complainant legal guardianship of his grandniece pending the completion of a home study by an appointed child welfare agency. A hearing is scheduled for October 15, 1990, at which time the adoption may be finalized. The Complainant asks whether his grandniece is eligible for health benefits coverage since he provides her full support, he is her legal guardian and he has initiated procedures to adopt the child.

The Respondent states that the Complainant's grandniece is not eligible for health benefits coverage until the adoption process has been finalized. The Respondent states that its position is supported by a previous decision of the Trustees in ROD 84-209.

Dispute

Whether the Respondent is required to provide health benefits coverage for the Complainant's grandniece.

Positions of the Parties

Position of the Complainant: The Complainant's grandniece should be eligible for health benefits coverage because the Complainant has been appointed her legal guardian, he provides all of her support, and he has initiated adoption proceedings.

Position of the Respondent: Under the terms of the Employer Benefit Plan and consistent with a previous decision of the Trustees, the Complainant's grand niece does not qualify for health benefits coverage as an eligible dependent of the Complainant until the adoption has been finalized.

Pertinent Provisions

Article I. (1), (2), (4), and (7) of the Employer Benefit Plan provides:

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

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 0, 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.

Question and Answer (Q&A) H-3 (81) states:

Subject: Health Benefits; Dependent Children
Reference: (SOB) II C; (74B) II C

Question:

Assuming all elements of dependency are met, may the following relatives qualify for health benefits as dependents of participants?

- (1) Stepchildren, illegitimate children and adopted children
- (2) Grandchildren
- (3) Nieces, nephews, foster children, brothers and sisters

Answer:

- (1) Stepchildren, illegitimate children and adopted children are covered for health benefits. Coverage for adopted children begins the date they begin living in the participant's household, provided the adoption process has begun.
- (2) Grandchildren are covered provided they are living in the same household as the participant. Their eligibility terminates upon the death of such participant; they are not included for health benefits as the dependent of a surviving spouse.
- (3) Nieces, nephews, foster children, brothers and sisters are not covered. They may be included, however, if adopted by the participant.

Discussion

The issue In this case is whether the Respondent is obligated to provide benefits to the Complainant's grandniece. Under Article II. D. (2) of the Employer Benefit Plan, health benefits are provided to the unmarried dependent children of an eligible Employee who have not attained age 22. Q&A H-3 (81) further states that adopted children of an Employee are eligible for health benefits coverage and that such coverage begins on the date that they begin living in the Employee's household, provided the adoption process has begun. The

Complainant's grandniece has been living with the Complainant since April 1990, and the Complainant filed a petition to adopt his grandniece on May 11, 1990. Therefore, the Complainant's grandniece qualifies for health benefits coverage under Article II. D. of the

Opinion of Trustees
Resolution of Dispute
Case No. 88-312
Page 4

Employer Benefit Plan, and the Respondent is responsible for providing such coverage as of May 11, 1990, when the adoption process began.

Although the Respondent states that its position is supported by a previous decision of the Trustees in ROD 84-209, the facts in that case are distinguishable. The Employee in that case had been appointed legal guardian of his niece; however, there was no indication that he was in the process of adopting her. Thus, the decision in that case is not relevant to the particular facts here.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant's adopted child, effective May 11, 1990.