
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-456 - December 17, 1991

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 illegitimate son of an Employee.

Background Facts

The Complainant is eligible for health benefits coverage from the Respondent as an active Employee. The Complainant is seeking health benefits coverage for a child whom he claims is his son born out of wedlock. At the time of the child's birth in June 1988, the child's father was not identified on the birth certificate and the child was given his mother's last name. In July 1991, the Complainant and the child's mother amended the birth certificate to name the Complainant as the father and to give the child the Complainant's last name. The child and his mother are living with the Complainant. The Complainant contends that his illegitimate son is eligible for health benefits coverage as his dependent.

The Respondent alleges that the Complainant is not the child's father and fraudulently changed the child's birth certificate. The Respondent also contends that the child is not an eligible dependent of the Complainant because the Complainant does not provide over one-half of the child's support and the child was not listed as a dependent on the Complainant's 1990 income tax return. After the Complainant submitted to the Funds a copy of the amended birth certificate with the official seal of the West Virginia Department of Health, Division of Vital Statistics, the Respondent further stated that the child is not eligible for coverage because the Complainant does not have legal custody nor has he adopted the child, as required under Article II D. of the Employer Benefit Plan. The Respondent states that this position is supported by previous decisions of the Trustees in RODs 84-209 and 88-282.

Dispute

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

Positions of the Parties

Position of the Complainant: The Complainant's illegitimate son is eligible for health benefits coverage as his dependent.

Position of the Respondent: Under the terms of the Employer Benefit Plan and consistent with previous decisions of the Trustees, the Complainant's illegitimate son does not qualify for health benefits coverage as an eligible dependent of the Complainant because the Complainant is not the child's father, he has not adopted the child nor does he have legal custody of the child, and does not provide one-half of the child's support.

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 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.

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

Subject: Health Benefits; Dependent Children
Reference: (50B) 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, brother 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

Under Article II. D. (2) of the Employer Benefit Plan, health benefits are provided to unmarried dependent children of an eligible Employee who have not attained age 22. Article II. D. provides that children are considered dependent upon the eligible Employee, if such Employee provides on a regular basis over one-half of the child's support. Q&A H-3 (81) further states that stepchildren, illegitimate and adopted children may qualify for health benefits coverage assuming all elements of dependency are met. The issue in this case is whether the Respondent is required to provide health benefits coverage to the Complainant's illegitimate child. Funds' staff have confirmed that the amended birth certificate listing the Complainant as the child's father is valid. Therefore, the child is the Complainant's illegitimate son. Accordingly, the child qualifies for health benefits coverage, provided the Complainant submits documentation to the Respondent to establish dependency.

The Respondent states that the Complainant does not provide over one-half of the child's support because the child was not claimed as a dependent on the Complainant's federal income tax return. Although the Complainant's tax return is not conclusive of dependency, the Complainant may provide other evidence to determine whether he provides over one-half of the child's support. According to Q&A H-2 (81) (copy enclosed herein), support includes the fair rental value of lodging, reasonable cost of board, clothing, miscellaneous household services and education expenditures; support is not limited to necessities.

Although the Respondent states that its position is supported by the Trustees' decisions in RODs 84-209 and 88-282, the decisions in those cases are not relevant to the particular facts here. The Employee in each of those cases was seeking health benefits coverage for a niece. In both cases, the Trustees noted that the niece of an Employee does not qualify for health benefits coverage unless she is adopted by the Employee. As noted in Q&A H-3 (81), this adoption requirement applies to nieces, nephews, foster children, brothers and sisters who could not otherwise be considered dependent children of an eligible Employee; however, adoption is not a requirement for stepchildren or illegitimate children.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant's illegitimate child, provided all elements of dependency are met.