

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-474 - March 25, 1992

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 dependent child of an Employee.

Background Facts

The Complainant is eligible for health benefits coverage from the Respondent as an active Employee. The Complainant initiated procedures to adopt a child born on July 5, 1991. The Complainant was awarded legal guardianship of the child on July 8, 1991 and filed a petition to adopt the child on July 12, 1991. Because of medical problems, the child remained in the hospital until July 14, 1991, when the Complainant brought the child home. Health benefits coverage was provided to the child as a dependent of the Complainant effective July 12, 1991.

The Complainant contends that the Respondent is required to provide health benefits coverage for the child effective July 5, 1991 because the Complainant had initiated procedures to adopt the child on that date. The Complainant claims that the child should not be denied health benefits coverage because the child was hospitalized and therefore unable to live with the Complainant. The Complainant has submitted copies of unpaid bills for the child's medical expenses incurred from July 5, 1991 through July 11, 1991.

The Respondent states that the child is not eligible for health benefits coverage as the Complainant's dependent prior to the date the Complainant filed a petition to adopt on July 12, 1991. The Respondent also contends that coverage should not begin prior to the date that the child began living in the Complainant's household.

Dispute

Whether the Respondent is required to provide health benefits coverage for the Complainant's dependent child prior to July 12, 1991.

Positions of the Parties

Position of the Complainant: The Complainant's dependent child should be eligible for health benefits coverage effective July 5, 1991 because the Complainant had initiated adoption proceedings on that date and the child was unable to live in the Complainant's household because the child was hospitalized.

Position of the Respondent: The Complainant's child does not qualify for health benefits coverage as an eligible dependent of the Complainant prior to July 12, 1991 because the child was not living in the Complainant's household and adoption procedures had not begun prior to that date.

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, -8, 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:(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

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. In ROD 84-569, the Trustees concluded that guardianship does not meet the adoption requirement for eligibility. In ROD 88-312, the Trustees concluded that the adoption process had begun on the date that the Employee filed a petition to adopt. In this case, the adoption process had begun on July 12, 1991, and the Employer has agreed that the child became eligible for coverage on that date. Therefore the

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child qualifies for health benefits coverage under Article II. D. of the Employer Benefit Plan as of July 12, 1991.

Opinion of the Trustees

The Respondent is required to provide health coverage for the Complainant's dependent child, effective July 12, 1991.