
OPINION OF TRUSTEES

In Re

Complainant: Divorced Spouse of a Deceased Employee
Respondent: Employer
ROD Case No: 88-709 - December 15, 1993

Board of Trustees: Michael H. Holland, Chairman; Thomas F. Connors, Trustee; Marty D. Hudson, Trustee; Robert T. Wallace, Trustee.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was divorced from the Employee in 1983. During their marriage the Complainant and the Employee had a son. Following the Employee's remarriage in 1987, the son lived with his father (the Employee). When the Employee died on January 12, 1990, his son returned to live with the Complainant. The Respondent terminated health benefits coverage for the Complainant's son. The Complainant asserts that her son is entitled to health benefits coverage as a surviving dependent of an Employee.

Dispute

Is the Complainant's son entitled to health benefits coverage as a surviving dependent of a deceased Employee?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant's son as a surviving dependent of a deceased Employee.

Position of the Respondent: The Complainant's son does not qualify for health benefits coverage as a surviving dependent of a deceased Employee because he is not supported by or living with the Employee's surviving spouse.

Pertinent Provisions

Article II D. (2) and E. of the Employer Benefit Plan provide:

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:

- (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.

E. Surviving Spouse and Dependents of Deceased Employees or Pensioners

Health benefits under Article III shall be provided to (i) any unmarried surviving spouse (who was living with or being supported by the Employee or Pensioner immediately prior to the Employee's or Pensioner's death) and (ii) such spouse's unmarried surviving dependent children as defined in subparagraphs (2) and (5) of paragraph D of an Employee or Pensioner who died:

- (1) As a result of a mine accident occurring on or after the effective date of the Plan while the Employee was working in a classified job for the Employer,;
- (2) Under conditions which qualify such spouse for a Surviving Spouse benefit under the 1974 Pension Plan or any successor thereto;
- (3) At a time when such Employee or Pensioner is entitled to receive health benefits pursuant to paragraph A, B, or C of this Article II, provided that (i) if such Employee or Pensioner died prior to the effective date of the Wage Agreement and the spouse is not eligible for a Surviving Spouse's benefit, then only for the period that the spouse is eligible to receive death benefits in installment payments pursuant to paragraph C of Article III, or (ii) if such Employee or Pensioner died on or after the effective date of the Wage Agreement and the spouse is not eligible for a Surviving Spouse's benefit and life insurance benefits or death benefits are payable in a lump sum, then only for 60 months following the month of the death of such Employee or only for 22 months following the month of death of such Pensioner. If life insurance benefits are not payable, health benefits shall be provided only to the end of the month in which the Employee or Pensioner died.

Discussion

Article II E. of the Employer Benefit Plan stipulates that health benefits coverage shall be provided to a deceased Employee's surviving spouse and to such spouse's unmarried dependent children as defined in Article II D. Article II D. states that a person shall be considered dependent upon an eligible spouse if the spouse provides on a regular basis over one-half of the person's support. Inasmuch as the Complainant's son is not living with or supported by the deceased Employee's surviving spouse, he is not entitled to health benefits as a surviving dependent under the terms of Article II E. of the Employer Benefit Plan.

Opinion of the Trustees

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