
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 88-737 - August 3, 1995

Trustees: Thomas F. Connors, Michael H. Holland, Marty D. Hudson and Robert T. Wallace.

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

Background Facts

The Complainant is eligible for health benefits coverage from the Respondent as an active Employee. The Complainant's daughter, whose date of birth is June 11, 1970, underwent surgery as an outpatient in April, 1993. The Respondent has denied health benefits coverage for the Complainant's daughter's surgery.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant's daughter's surgery performed in April, 1993?

Positions of the Parties

Position of the Employee: The Respondent is required to provide health benefits coverage for the Complainant's daughter surgery in April, 1993 because the Complainant's daughter's physician's office contacted the Respondent's insurance carrier and was told that the Complainant had coverage and that pre-approval of an out-patient surgery was not necessary.

Position of the Respondent: The Respondent is not required to provide health benefits coverage for the Complainant's daughter because at the time of her surgery she was 22 years of age and was not an eligible dependent of an Employee according to Article II D. (2) of the Employee Benefit Plan. Nor is the Complainant's daughter disabled as defined by Article II D. (5) of the Employer Benefit Plan.

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) and (5) 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;

(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.

Article III. A. (11) (a) 2. (ii) of the Employer Benefit Plan provides:

Article III - Benefits

A. Health Benefits

- (11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

2. Services Rendered

...

(ii) subsequent to the period after which a Beneficiary is no longer eligible for benefits under the Plan;

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 III A. (11) of the Employer Benefit Plan specifically excludes coverage for services rendered subsequent to the termination of a beneficiary's eligibility under the Plan. The Trustees have addressed the issue of an Employer's responsibility under the Employer Benefit Plan to provide coverage for a dependent. In ROD 84-078 (copy enclosed herein), the Trustees concluded that " coverage ceases on the date the child of a eligible Employee no longer satisfies the eligibility requirements as set forth in Article II D. (2) of the Plan." Inasmuch as the Complainant's daughter attained age 22 on June 11, 1992, the Respondent is not required to provide coverage for the Complainant's daughter for services rendered to her after June 11, 1992.

The Complainant states that the doctor's secretary was told by the Respondent's insurance company that the "[Complainant] had coverage and that pre-approval of out-patient surgery was not necessary." While the Complainant may have been told that pre-approval of out-patient surgery was not required, there is no evidence that the Respondent's insurance company advised him that his daughter was eligible for this procedure under the Plan. Accordingly, the evidence does not support a finding that the Respondent is responsible for the claimed benefits. See ROD 81-655.

Under Article II D. (5) of the Plan, health coverage is available for certain dependent children who become disabled prior to attaining age 22. The Complainant does not contend, nor does the evidence in the record establish, that his daughter is disabled.

Opinion of the Trustees

The Respondent is not required provide health benefits coverage for the Complainant's daughter after she attained age 22 on June 11, 1992 .