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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-740 - February 16, 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 benefits under the terms of the Employer Benefit Plan.

Background Facts

The Complainant is employed by the Respondent in a classified position. The Complainant's stepson, whose date of birth is October 30, 1969, was covered as a dependent under the Respondent's Benefit Plan until April 30, 1993, when his coverage was terminated at age 23. The Respondent states that due to an administrative error, the Complainant's stepson's health benefits coverage was not terminated when he turned age 22.

The Representative for the Complainant contends that the Complainant's stepson is entitled to health benefits coverage as a disabled adult dependent because he has been disabled for several years. Information submitted by the Complainant indicates that his stepson has a blind right eye and is receiving psychotherapy. The physicians treating the stepson have stated that, as a result of his medical problems (glaucoma and cataracts) and his psychological problems (depression and anxiety), the stepson is dependent on his family for financial support.

The Respondent states that it reviewed medical records submitted by the Complainant in March, April and May of 1993 to support his stepson's claim of disability. The Respondent contends that the stepson is not eligible for health benefits coverage as a disabled adult dependent because he does not meet the requirements for total and permanent disability as defined in Question and Answer H-6 (81).

Dispute

Is the Complainant's stepson eligible for health benefits coverage as a disabled adult dependent?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant's stepson as a disabled dependent.

Position of the Employer: The Respondent is not required to provide health benefits coverage for the Complainant's stepson because the stepson is capable of self support and his current dependency on his parents for support is not a permanent condition.

### Pertinent Provisions

Article II D. (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:

- (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.

Question and Answer (Q&A) H-6 (81) (part 1) provides:

Subject: HEALTH BENEFITS; Disabled Children H-6 (81)  
Reference: (50B) II C(5), II D; (74B) II C(5), II D

#### Question:

Certain dependent children (of any age) are eligible for health benefits if they are mentally retarded or become disabled prior to attaining age 22 and such disability is continuous.

- (1) What is the standard for determining whether the dependent child is "mentally retarded or disabled"?

#### Answer:

- (1) A person is "mentally retarded or disabled" if the person has any professionally determinable physical, mental, or psychological impairment which precludes the person's living or functioning independently of his/her parent(s) or an institution.

#### Discussion

Article II D. (5) of the Employer Benefit Plan stipulates that health benefits coverage will be provided to dependent children of any age who are mentally retarded or who become disabled prior to attaining age 22, and whose disability is continuous. Q&A H-6 (81) provides that " a person is mentally retarded or disabled if the person has any professionally determinable physical, mental, or psychological impairment which precludes the person's living or functioning independently of his/her parent(s) or an institution."

The Complainant contends that his stepson is disabled and is eligible for health benefits coverage as a disabled adult dependent. The information provided to the Funds indicates that the Complainant's stepson may have some limitations due to his loss of vision in his right eye. However, the information fails to establish that the stepson has a physical, mental or psychological impairment which would preclude him from living or functioning independent of his parents. Therefore, in accordance with the provisions of Article II D. (5) of the Employer Benefit Plan, as qualified by Question and Answer H-6 (81), the Complainant's stepson is not eligible to receive health benefits coverage as a disabled adult dependent.

#### Opinion of the Trustees

The Respondent is not responsible for the provision of health benefits coverage for the Complainant's stepson.