
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 98-011 – September 13, 2000

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson and
Elliot A. Segal.

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 eligible for health benefits coverage from the Respondent as an active Employee. The Complainant has requested coverage for two dependent children. The children are related to the Complainant's spouse through the following history. The Complainant's spouse gave birth to a male child. Later, the child was adopted by the Complainant's spouse's parents--the child's grandparents. Subsequently, the child grew up, married and had two male children--one born in 1983 and the other in 1989. The two children have been living with the Complainant and his spouse since May 1998. The married child gave the Complainant and his spouse legal guardianship of his two children. The Complainant states that the Respondent should provide coverage for the two children because the Complainant has provided all of their support since May 1998.

Dispute

Is the Respondent required to provide coverage for the two dependent children?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits to the two children because the Complainant has legal guardianship and had been providing all of the children's support since May 1998.

Position of the Respondent: The Respondent is not required to provide coverage for the two children because the Complainant's spouse's son was adopted by her parents; thus, the two children in question are not the legal stepsons or step grandchildren of the Complainant.

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 1998, 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.

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- (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

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:

- (1) A spouse who is living with or being supported by an eligible Employee or Pensioner;
- (2) Unmarried dependent children of an eligible Employee or Pensioner who have not attained age 22;
- (3) A parent of an eligible Employee, Pensioner or spouse, if the parent has been dependent upon and living in the same household (residence) with the eligible Employee or Pensioner for a continuous period of at least one year;
- (4) Unmarried dependent grandchildren of an eligible Employee, Pensioner or spouse who have not attained age 22 and are living in the same household (residence) with such Employee or Pensioner;
- (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.

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. of the Employer Benefit Plan, health benefits are provided to certain dependent family members of an Employee. Assuming all elements of dependency are met, Q&A H-3 (81) further clarifies what relatives are covered under the Employer Benefit Plan. The first step in this case, therefore, is to define the relationship between the Employee--the Complainant--and the two children in question.

When the Complainant's spouse's parents adopted the Complainant's spouse's child, her son legally became her brother. Thus, the relationship of the Complainant's spouse to her brother's children is that of an aunt. Therefore, the Complainant's relationship to the children is that of an uncle.

The issue of an Employee's niece's eligibility for health benefits coverage has previously been addressed by the Trustees in RODs 84-209, 88-282, and 88-629. The Employees in each of these cases had legal guardianship for the niece and were providing all of the niece's support. In each case, the Trustees concluded that the niece of an Employee does not qualify for health

benefits unless the child is adopted by the Employee. An arrangement of legal guardianship is not equivalent to the process of adoption.

The Complainant in this case has not initiated adoption proceedings. Accordingly, the Respondent is not required to provide health benefits coverage for the Complainant's nephews.

Opinion of the Trustees

The Respondent is not required to provide health benefits coverage for the Complainant's nephews under the terms of the Employer Benefit Plan.