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OPINION OF TRUSTEES

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In Re

Complainant: Surviving Spouse  
Respondent: Employer  
ROD Case No: CA-080 – April 19, 2006

Trustees: Micheal W. Buckner, A. Frank Dunham, Michael H. Holland, 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 Coal Industry Retiree Benefit Act of 1992 (Coal Act) Employer Benefit Plan maintained pursuant to section 9711 of the Internal Revenue Code.

Background Facts

The Complainant was awarded a Surviving Spouse benefit under the 1974 Pension Plan effective August 1, 1998. At the time of the benefit award, the Complainant was employed full-time. Because her earnings exceeded the income limit to receive health coverage under the Respondent's Employer Benefit Plan, the Complainant's health coverage was suspended. On June 30, 2005, the Complainant ceased working and requested that her health coverage be resumed.

According to the Respondent, during a telephone conversation with the Complainant on January 10, 2005, the Complainant revealed that she had not remarried, but was living in a common-law relationship. The Respondent states that health coverage for a Surviving Spouse terminates as of the date of remarriage. The Respondent argues that although the Complainant has not legally remarried, she is a common-law spouse and therefore has remarried.

The Complainant states that she is not in a common-law relationship and that the Respondent has not requested that she provide any documentation concerning a common-law relationship. Along with her request for Resolution of Dispute, the Complainant submitted for the Respondent's review a copy of her employment termination letter and a copy of her Federal Income Tax return for 2004 indicating that she filed as single with no dependents.

Dispute

Is the Respondent required to provide health coverage for the Complainant as a Surviving Spouse under the Employer Benefit Plan?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health coverage for the Complainant as a Surviving Spouse because she meets the eligibility requirements to receive coverage.

Position of the Respondent: The Respondent is not required to provide health coverage for the Complainant as a Surviving Spouse because the Complainant is living in a common-law relationship. Although the Complainant has not legally remarried, she is a common-law spouse and therefore has remarried. Health coverage for a Surviving Spouse terminates as of the date of remarriage. RODs 78-156 and 81-375 support the Respondent's position.

Pertinent Provisions

Article I (1), (2) and (6) of the 2002 Employer Benefit Plan provide:

Article I - Definitions

The following terms shall have the meanings herein set forth: (1)

- (1) "Employer" means (Employer's Name).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 2002, as amended from time to time and any successor agreement.
- (7) "Beneficiary" shall mean any person who is eligible pursuant to the Plan to receive health benefits as set forth in Article III hereof.

Article II E. (2) of the Employer Benefit Plan provides:

Article II - Eligibility

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 section D, of an Employee or Pensioner who died:

\* \* \*

(2) Under conditions which qualify such spouse for a Surviving Spouse benefit under the 1974 Pension Plan or any successor thereto;

\* \* \*

Health benefits shall not be provided during any month in which such surviving spouse is regularly employed at an earnings rate equivalent to at least \$1,800 per month effective January 1, 2002, and \$2,000 per month effective January 1, 2005.

Question and Answer H-1 (81) provides:

Subject: HEALTH BENEFITS; Common-Law Marriage, Children of a Common-Law Marriage

Reference:(5OB) II C; (74B) II C

Question:

If a participant enters a common-law relationship, what is the health benefit status of:

- (1) the common-law spouse?
- (2) a 10-year old child, by a former marriage, of the common-law spouse?
- (3) a child born of the common-law marriage?

Answer:

If there is no living spouse of either party in the background, a valid common-law marriage exists if the relationship has been one of substantial and continuous duration and the parties have been living together openly as married persons and are recognized as such in the community.

Assuming a valid common-law marriage has been established, the dependent spouse will be eligible for health benefits and the children will also be eligible if they are dependent on the participant.

### Discussion

Under Article II E. (2) of the Employer Benefit Plan, health benefits shall continue for a surviving spouse who qualifies for a Surviving Spouse benefit under the 1974 Pension Plan for as long as the surviving spouse remains unmarried and, effective January 1, 2005, has a monthly income under \$2,000 per month.

Although the Complainant is receiving a Surviving Spouse benefit and effective June 30, 2005, has no monthly income, the Respondent argues that the Complainant is not eligible for health coverage because she has remarried by means of a common-law marriage.

In ROD 78-156, the Trustees determined that “[a] common law spouse is a ‘spouse’ for all purposes under the Plan. And the fact that state law may not recognize common law marriages is immaterial.” Thus, a common-law spouse is recognized as a spouse under the Employer Benefit Plan.

The issue of a common-law spouse’s eligibility for health benefits coverage has previously been addressed by the Trustees (see RODs 156, 81-685, 88-245 and 88-617). The Trustees stated that if there is no living spouse of either party in the background, a valid common-law marriage exists if the relationship has been of substantial and continuous duration and the parties have been living together openly as married persons and are recognized as such in the community. The Trustees further stated that a common-law relationship of substantial and continuous duration is one which has or had continued for a period of not less than nine (9) months (see RODs 84-256 and 88-162).

The Trustees have reviewed cases in which a Complainant who is eligible for health coverage seeks coverage for an individual claimed as a common-law spouse. (See RODs 88-245, 88-162, 84-256, 84-127.) The Trustees have also reviewed cases in which, following the death of a pensioner, an individual claimed to be the common-law spouse of the pensioner and requested health coverage. (See RODs 88-707 and 81-685.) In all cases, the Complainants were required to provide documentation to determine whether the common-law marriage was of a substantial and continuous duration and that the parties had been living together openly as married persons. Such documentation included bank account statements, insurance policies, real estate documents, and income tax returns.

Unlike the precedent cases referred to above where an individual attempted to establish that a common-law marriage existed to receive coverage, the opposite situation is presented here. The Respondent has determined that an individual who is receiving a Surviving Spouse benefit is not eligible for coverage because the individual is in a common-law marriage.

According to the Respondent, the Complainant revealed in a telephone conversation with the Respondent that she is in a common-law marriage. Based on this statement, the Respondent

determined that a common-law marriage was established under the Plan. The Respondent has submitted no other evidence that a common-law marriage exists. The Complainant asserts, however, that she is not in a common-law marriage, and submitted a copy of an income tax return showing that she files as an unmarried person.

The Respondent cited RODs ROD 78-156 and 81-375 to support its position. ROD 78-156 was addressed above and 81-375 confirms that a health coverage for a surviving spouse terminates if she remarries.

Opinion of the Trustees

Absent sufficient documentation to establish a common-law marriage, the Respondent is required to provide health coverage to the Complainant as long as she continues to meet the eligibility requirements under Article II E (2).