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OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 84-028 - July 29, 1985

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage for a disabled dependent by the Employer under the terms of the Employer Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Complainant states that his daughter, who was born on March 5, 1945 and has suffered from diabetes since she was nine years old, is disabled because of her physical condition and should be provided with health benefits coverage as an adult dependent under the Employer Benefit Plan. In support of his claim, the Complainant has stated that his daughter was previously covered as an adult dependent under the Funds-administered health benefit program from 1967, when she attained age twenty-two, through 1978. Funds' historical claims payment records show that the Complainant's daughter was covered as an adult dependent between the ages of eighteen (18) and twenty-two (22), consistent with the requirements of Trustee Resolution 52, enclosed herein, which governed eligibility for health benefits at that time. No medical evidence is available to indicate the extent of her physical impairment during that period, and no claims were paid by the Funds on her behalf for services after January 10, 1966. Since that time her condition has worsened, resulting in the amputation of a toe, a kidney transplant and, most recently, a heart attack.

The Complainant's daughter was married in June 1979, and was divorced in July 1980. She has resided with her parents since that time, with the exception of brief visits with friends who live near the medical facilities where she stays during periods of treatment.

The Respondent provided benefits coverage for the Complainant and his dependents, including his daughter, from the inception of the Employer Benefit Plans in 1978 through January 31, 1985. The Respondent claims that it provided coverage to the daughter as an adult dependent in error, and that it never obtained evidence that would indicate when she became disabled.

In addition, the Respondent has questioned whether the daughter currently meets the residency requirements, citing addresses listed on various invoices for medical services. Finally, the Respondent contends that because of her marriage, the daughter ceased to be dependent on her father in 1979.

### Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant's daughter as a disabled adult dependent?

### Position of the Parties

Position of the Complainant: The Respondent is responsible for providing health benefits coverage for his disabled daughter.

Position of the Respondent: The Complainant's daughter is not an eligible dependent as defined by the Employer Benefit Plan because (1) the Respondent does not have evidence that she was disabled at age 22, (2) she was married from June 16, 1979 to July 2, 1980 and (3) she does not reside in the same household as the Complainant.

### Pertinent Provisions

#### Resolution No. 52

I A.3. of Trustee Resolution No. 52 (effective July 1, 1960 to January 19, 1967) provides:

#### Article I - Eligibility

- A. The following persons shall be eligible for benefits herein provided for hospital and medical care, subject to the provisions of Paragraph B of this Paragraph I:
  - 3. Unmarried incapacitated children whose incapacity antedates their eighteenth (18) birthday for the duration of such incapacity, but not to exceed age twenty-one (21), and are dependent upon and are and have been living with the miners in their households continuously for one (1) year next preceding application for benefits herein provided.

Article I, (1), (2), (5) and (7) of the Employer Benefit Plan provides:

#### Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (name of company).

- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1984, 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.
- (5) "Pensioner" shall mean any person who is receiving a pension... under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer subject to the provisions of Article II B of this Plan.
- (7) "Dependent" shall mean any person described in Section D of Article II hereof.

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 (residence) 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

In his statement of dispute, the Complainant states that the UMWA Health and Retirement Funds provided his daughter with health benefits coverage from her 22nd birthday in 1967 until 1978, when the Respondent became responsible for providing health benefits coverage for its Employees and their eligible dependents. However, Funds' records indicate that it provided benefits coverage to her as an "unmarried incapacitated child" only from the time she was 18 until she became 22, in accordance with the regulations contained in Resolution 52 in effect at that time. While such coverage suggests that the daughter had an "incapacitating" physical problem prior to age twenty-two, the Plan Administrator is not bound by a prior eligibility determination.

Currently, 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. In Q&A H-6 (81), the Trustees determined that a dependent child 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."

In response to this request for Resolution of Dispute, medical records were obtained from attending physicians and providers in an effort to determine whether the Complainant's daughter was disabled prior to attaining age 22, as defined by the current provisions of Q&A H-6 (81). A physician who attended the Complainant's daughter from the onset of her diabetic condition until 1964 stated that at age 18 she was not disabled. This physician could not establish the age at which she became disabled, but considered her to be so when he treated her again in January 1981. These records were reviewed by a Fund's Medical Consultant who concluded that there is insufficient evidence to establish that she was disabled prior to age 22. Therefore, in accordance with the provisions of Article II. D (5) of the Employer Benefit Plan, the Complainant's daughter is not eligible to receive health benefits coverage. The issues raised by the Respondent regarding the daughter's marriage and her actual place of residence, therefore, need not be addressed.

#### Opinion of the Trustees

The Respondent is not responsible for providing health benefits coverage for the Complainant's daughter.