

---

OPINION OF TRUSTEES

---

In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 88-629 - September 29, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee;  
William Miller, Trustee; Elliot A. Segal, 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 the niece of an Employee.

Background Facts

The Complainant is eligible for health benefits coverage from the Respondent as an active Employee. The Complainant claims that his 17 year-old niece is -eligible for health benefits coverage as his dependent. In support of his claim, the Complainant submitted a copy of a notarized statement dated January 15, 1990, in which the father of the 17 year-old states that he gives legal guardianship of his daughter to his sister (the Complainant's spouse).

The Respondent states that the Complainant's niece is not eligible for health benefits coverage because nieces are not listed as eligible dependents under Article II. D. of the Employer Benefit Plan. The Respondent also states that the Complainant did not list the niece as a dependent on the health insurance -enrollment forms that he submitted to the Respondent in 1989, 1990 and 1991.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant's niece?

Positions of the Parties

Position of the Complainant: The Complainant's niece should be eligible for health benefits coverage because the Complainant's spouse has been appointed her legal guardian.

Position of the Respondent: Under the terms of the Employer Benefit Plan the Complainant's niece does not qualify for health benefits coverage as an eligible dependent of the Complainant.

Pertinent Provisions

Article I (1), (2), (4) and (7) of the Employer Benefit Plan provide:

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) 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.

#### Discussion

Article II D. of the Employer Benefit Plan provides health benefits coverage for certain dependent family members of an Employee, Pensioner or disabled Employee receiving health benefits pursuant to paragraphs A, B, or C of Article II of the Plan. However, a niece is not included among the eligible dependent family members. The issue of an Employee's niece's eligibility for health benefits coverage has previously been addressed by the Trustees in RODs 88-282 and 84-209 (copies enclosed herein). The Trustees concluded that the niece of an Employee does not qualify for health benefits unless she is adopted by the Employee. 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 niece.

#### Opinion of the Trustees

The Respondent is not responsible for providing health benefits coverage for the Complainant's niece under the terms of the Employer Benefit Plan.