

THIRD DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

In the Matter of the UTAH STATE
RETIREMENT BOARD's Trustee
Duties and Salt Lake City Ordinance
No. 4 of 2006

RULING
(First Amended Petition for Trustee
Instruction/Declaratory Judgment)

Civil No. 050916879
Judge Stephen L. Roth

On March 24, 2006, the Utah State Retirement Board (the "Board") filed a Notice to Submit for Decision its First Amended Petition for Trustee Instruction/Declaratory Judgment (the "Amended Petition"). The subject of the Amended Petition is the provision of coverage for dependents in a health insurance plan adopted by the Salt Lake City Council (the "City Council"), and Salt Lake City Corporation has filed the Response of Salt Lake City Corporation to First Amended Petition for Trustee Instruction/Declaratory Judgment (the "City's Response").

At a status hearing on February 24, 2006, the court orally granted leave to the Board to file an Amended Petition, and the Board thereafter formalized its request by filing a Motion for Leave to File Amended Declaratory Action, with the proposed Amended Petition attached, and a supporting Memorandum. While the Board has not expressly submitted that Motion for decision, the court infers that it has done so by submitting the Amended Petition itself for decision, and accordingly formalizes its ruling from the bench by hereby **GRANTING *nunc pro tunc*** leave to file the Amended Petition.

In this case, Salt Lake City Corporation (the "City") has asked the Utah State Retirement Board (the "Board"), as the governing body of the Public Employees Health Program ("PEHP") to implement and administer new "adult designee" health insurance benefits recently authorized by the

City Council by passage of an ordinance (Ordinance No. 4 of 2006, enacting Section 2.52.100 of the Salt Lake City Code; the pertinent provisions of which are referred to below as the "Adult Designee Benefit"), which took effect on March 3, 2006. The ordinance extends employee health insurance benefits to an employee's dependents, including an employee's spouse and children and the "Adult Designee" of an unmarried employee and the Adult Designee's children. An Adult Designee is defined as a person, not the spouse of the employee, who has resided in the domicile of the eligible employee for not less than twelve consecutive months and intends to continue to do so, is at least eighteen years old, and is economically dependent on or interdependent with the eligible employee. The Amended Petition asks the court to determine whether such adult designee benefits are legally permissible—in particular, whether such benefits run afoul of U.C.A. § 49-20-105 (authorizing public employers to provide a number of benefits, including group health coverage, to eligible employees and their dependents), U.C.A. § 30-1-4.1 (prohibiting state recognition, enforcement or implementation of "any law creating any legal status, rights, benefits, or duties that are substantially equivalent to those provided under Utah law to a man and a woman because they are married"), and Article I, Section 29 of the Utah Constitution (declaring that "[m]arriage consists only of the legal union between a man and a woman" and prohibiting any other domestic union from being recognized as marriage "or given the same or substantially the same legal effect"). The Board requests this determination in order to clarify uncertainties regarding the legality of the Adult Designee Benefit so as to ensure that it does not contravene its fiduciary and legal responsibilities under applicable statutes. The Board will not move forward with implementation and administration of the Benefit without the requested legal declaration, and the court therefore concludes that it has jurisdiction to resolve this dispute between the Board and Salt Lake City under U.C.A. § 78-33-4.

The Board has submitted its Amended Petition for decision by the court, and neither the Board nor Salt Lake City has requested a hearing on the matter, having concluded that the hearing held on January 5, 2006, adequately addressed the issues presented here, even though in the somewhat different context presented in the original Petition. This is a conclusion with which the court agrees.

Having considered the Amended Petition, the City's Response, other pertinent pleadings filed in this matter, and the relevant arguments of counsel at the January 5, 2006 hearing, the court makes the following findings and conclusions: Adult designees and their children fall within the plain meaning of dependent (i.e., "a person who relies on another for support," *Meriam-Webster Online Dictionary* at www.webster.com) and are therefore within the broad scope of "employee's dependents" who are "eligible for coverage" as "covered individuals" under U.C.A. § 49-20-102(2). While dependent coverage in employee benefit programs has traditionally been limited to spouses and dependent children, that is, generally those persons (but not all those persons) to whom the employee has legal obligations of support, as a practical matter single employees may have relationships outside of marriage, whether motivated by family feeling, emotional attachment or practical considerations, which draw on their resources to provide the necessities of life, including health care. Employee health benefits are a form of alternative compensation that can increase employment satisfaction and reduce employee stress; they can therefore contribute to retention of valued employees and help to attract new employees. Providing such benefits also can satisfy an employer's sense of social obligation, whether in the private or public sector. The flexibility to extend the traditional concept of dependent as Salt Lake City proposes to do to meet the changing expectations of the market place and needs of employees can therefore be argued to be in the City's interest as an employer and public entity, as well as in the interests of covered employees. If such

an extension of dependent benefits may not have been in the minds of the legislators who enacted U.C.A. § 49-20-105, neither is it prohibited by the plain language or apparent intent of the Public Employees' Benefit and Insurance Program Act. The Adult Designee Benefit is therefore within the scope of the public employee benefit programs authorized by U.C.A. § 49-20-105.

Nor does the Adult Designee Benefit appear to create "any legal status, rights, benefits, or duties that are substantially equivalent to those provided under Utah law to a man and a woman because they are married." (see U.C.A. § 30-1-4.1) or to give "the same or substantially equivalent legal effect" as marriage to any other "domestic union" (see Utah Const., Art. I, § 29). The court is aware of no Utah law of general application to marriage that establishes health benefits as a perquisite of marriage. Health insurance programs, however common, are not required by law of either public or private employers, but are established voluntarily (or as the result of bargaining) to meet market-driven or other perceived needs. In their essence, employee health benefits are first and foremost simply a perquisite of employment. No spouse of an employee, whether employed in the public or the private sector, can require an employer to provide health insurance on account of his or her married status, unless such dependent coverage is already provided by the employer as a matter of contractual or other similar legal obligation. Rather, such benefits ultimately result from the relationship between employer and employee, whether defined by contract or ordinance,¹ and only secondarily because of marriage, if the employer provides such benefits to spouses. The Adult

¹ Ordinances are certainly within the broad definition of laws, but the ordinance at issue here is confined in scope to the parameters of one aspect of the City's relationship with its employees. It establishes no benefit that any other citizen can claim, whether married (as regards its provision for health benefits to spouses) or not (as regards its provision for health benefits to adult designees). This ordinance is an example of the way the City must authorize and define its employment relationships and therefore operates much more in the realm of contract than within the scope of "Utah law" that is the concern of U.C.A. § 30-1-4.1 or the "legal effect" contemplated by Article I, Section 29 of the Utah Constitution.

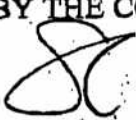
Designee Benefit therefore is not "substantially equivalent" to any "benefit provided under Utah law to a man and woman because they are married," nor does it make the relationship between employee and an adult designee "substantially equivalent" in "legal effect" to marriage between a man and a woman.

The court therefore RULES and DECLARES that implementation and administration of the Adult Designee Benefit established by Salt Lake City Ordinance No. 4 of 2006 is within the authority of the Board, in its capacity as trustee of PEHP, under U.C.A. § 49-20-105 and is not prohibited by U.C.A. § 30-1-4.1 or Article I, Section 29 or the Utah Constitution.

This ruling constitutes the final order of the court in this matter.

DATED this 11th day of May, 2006.

BY THE COURT:


Stephen L. Roth
DISTRICT JUDGE

