

Introduction

1. On 23 February 2018, the Applicant, a former staff member from the United Nations Development Programme (UNDP), filed an application contesting the decision made on 8 September 2017 by the Insurance and Disbursement Service/After Service Health Insurance (IDS/ASHI) to declare her ineligible to enroll in ASHI.

health insurance coverage was under her spouse (a staff member of the Organization) policy.

7. On 1 May 2007, the Applicant was on assignment with UNDP, from

14. On 22 June 2017, IDS informed the Applicant's spouse that, if he was to retire on 30 June 2017, he would not be eligible for ASHI.

15. On 12 July 2017, the Applicant informed IDS that she wished to apply for ASHI in conjunction with her husband's application.

16. On 28 August 2017, IDS informed the Applicant that staff members whose latest appointment was on or after 1 July 2007 would need a minimum of 10 years participation in the [United Nations] health plans under qualifying contracts in order to be eligible for ASHI. IDS further noted that participation in the [United Nations] Health plans after [the Applicant has] retired from the organization does not count towards [the Applicant's] ASHI eligibility. IDS concluded that, considering that the

health insurance plan of the United Nations. In this context, a contributory health insurance plan of the United Nations is defined to include a contributory health insurance plan of other organizations in the common system under which staff members may be covered by special arrangement between the United Nations and those organizations.

Section 2

Eligibility for after-service health insurance coverage

2.1 Individuals in the following categories are eligible to enroll in the after-service health insurance programme:

(a) **recruited on or after 1 July 2007**, who while a contributing participant in a United

from service, other than by summary dismissal:

(ii) At 55 years of age or later, provided that he or she had been a participant in a contributory health insurance plan of the United Nations for a **minimum of ten years** and is eligible and elects to receive a retirement, early retirement or deferred retirement benefit under the Regulations of UNJSPF [United Nations Joint Staff Pension Fund]

(b) **recruited before 1 July 2007**, who while a contributing participant in a United Nations contributory health insurance plan as defined in section 1.2 above, was separated from service, other than by summary dismissal:

(ii) At 55 years of age or later, provided that he or she had been a participant in a contributory health insurance plan of the United Nations for a **minimum of five years** and is eligible and elects to receive a retirement, early retirement or deferred retirement benefit under the Regulations of UNJSPF;

fixed-term appointment on 22 November 2010 with the UNDP Bureau of External

-appointment from [the
same duty station, and should be effective

22. Staff rule 4.17 on re-employment states as follows:

Re-employment

(a) A former staff member who is re-employed under conditions established by the Secretary-General shall be given a new appointment unless he or she is reinstated under staff rule 4.18.

(b) The terms of the new appointment shall be fully applicable without regard to any period of former service. When a staff member is re-employed under the present rule, the service shall not be considered as continuous between the prior and new appointments.

(c) When a staff member receives a new appointment in the United Nations common system of salaries and allowances less than 12 months after separation, the amount of any payment on account of termination indemnity, repatriation grant or commutation of accrued annual leave shall be adjusted so that the number of months, weeks or days of salary to be paid at the time of the separation after the new appointment, when added to the number of months, weeks or days paid for prior periods of service, does not exceed the total of months, weeks or days that would have been paid had the service been continuous.

23. fixed-term
appointment with UNDP that she was re-employed rather than reinstated under staff
rule 4.17, and the t0 Gdnder staff

31. The Tribunal notes that sec. 6 of ST/AI/2007/3 states as follows in respect to a staff member married to another staff member (emphasis added):

Section 6

Staff member married to another staff member

6.1 In the case of a staff member married to another staff member, the insurance coverage, whether at the two-person or family level, must be carried by the higher salaried staff member while both are in service. **In the event of divorce or the death of the spouse who pays the insurance contributions, a staff member who was enrolled as a spouse under the coverage of the other spouse maintains individual participation status,** together with his or her eligible dependants, for the purpose of any subsequent after-service health insurance coverage provided he or she meets the service eligibility requirements set out under section 2 above.

32. It follows that ST/AI/2007/3 requires that when a staff member is married to another staff member, the higher salaried staff member must carry the insurance coverage. Further, ST/AI/2007/3 states that in the event of divorce or the death of the spouse who pays the insurance contributions, a staff member who was enrolled as a spouse under the coverage of the other spouse maintains individual participation status. By necessary implication, it must follow that a spouse of a staff member carrying the insurance coverage also has the right to maintain individual participation

Case No. UNDT/NY/2018/010

Judgment No

different appointments, and made eleven years and eight months of contributions into a United Nations health insurance plan, to be deemed ineligible for ASHI. This case highlights the inequitable disparity of treatment of staff members who serve a lengthy career through a series of temporary appointments with the Organization, often under challenging uncertain conditions affecting their health, for the greater benefit of the Organization. It would be advisable for the Administration to review the current legal framework in relation to entitlements and benefits for staff members serving on temporary contracts.

Conclusion

39. The application is dismissed.

(Signed)

Judge Alexander W. Hunter, Jr

Dated this 7th day of June 2019

Entered in the Register on this 7th day of June 2019

(Signed)

Nerea Suero Fontecha, Registrar, New York