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## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 11-0149 – March 28, 2018

Trustees: Michael H. Holland, Marty D. Hudson, Michael O. McKown,  
and Joseph R. Reschini

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits under the terms of the Employer Benefit Plan.

### Background Facts

The Complainant is a retiree of the Respondent and receives medical benefits coverage from the Respondent secondary to Medicare.

The Complainant received knee replacement surgery in November 2016. He was hospitalized from November 1, 2016 through November 4, 2016. Medicare Part A (Hospital Insurance) approved the claim and paid \$12,506.71 to the provider. Medicare did not pay \$1,288.00, which was the Medicare Part A deductible for 2016. The Respondent denied payment of \$1,288.00. The Respondent claims that because the amount was for the Complainant's deductible, it is not a covered charge under the Employer Benefit Plan. The provider billed the Complainant and the Complainant paid the \$1,288.00.

No Medicare Part B (Medical Insurance) charges are in dispute.

### Dispute

Is the Respondent required to pay Complainant's Medicare Part A (Hospital Insurance) deductible, which was \$1,288.00 for 2016?

### Positions of the Parties

Position of the Complainant: The charges are a covered benefit under the Employer Benefit Plan. The Respondent is responsible for paying for the Complainant's Medicare Part A (Hospital Insurance) deductible, which was \$1,288.00.

Position of the Respondent: The Complainant is responsible for the Medicare deductible, which is not a covered benefit under the Employer Benefit Plan.

Pertinent Provisions

Article III A.(1)(a) of the Employer Benefit Plan states:

ARTICLE III BENEFITS

A. Health Benefits

(1) Inpatient Hospital Benefits

(a) Semi-private room

When a Beneficiary is admitted by a licensed physician (hereinafter "physician") for treatment as an inpatient to an Accredited Hospital (hereinafter "hospital"), benefits will be provided for semi-private room accommodations (including special diets and general nursing care) and all medically necessary services provided by the hospital as set out below for the diagnosis and treatment of the Beneficiary's condition.

Article III A. (10) (d) and Article III.A.(10) (f)1 and 3 of the Employer Benefit Plan state in pertinent part:

ARTICLE III BENEFITS

A. Health Benefits

(10) General Provisions

(d) Medicare

1. For Pensioners, and surviving spouses, the benefits provided under the Plan will not be paid to a Beneficiary otherwise eligible if such Beneficiary is eligible for Hospital Insurance coverage (Part A) of Medicare where a premium is not required and/or Medical Insurance coverage (Part B) of Medicare unless such Beneficiary is enrolled for each part of Medicare for which such Beneficiary is eligible. Any such Beneficiary who is enrolled in a Medicare program shall receive the benefits provided under the Plan only to the extent such benefits are not provided for under Medicare.

(f) Non-Duplication

The health benefits provided under this Plan are subject to a non-duplication provision as follows:

1. Benefits will be reduced by benefits provided under any other group plan,  
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3. As used herein, "group plan" means (i) any plan covering the individuals as members of a group and providing hospital or medical care benefits or services through group insurance.. . .

Discussion

Article III A.(1)(a) of the Employer Benefit Plan provides for payment of in-patient hospital benefits in a semi-private room as well as for all medically necessary services provided by the hospital for the treatment of the beneficiary's medical condition. Article III A. (10) (d) provides for payment of benefits under the Plan only if a beneficiary who is eligible to be enrolled in Medicare is actually enrolled in Medicare. The Plan will pay benefits under the Plan, for enrolled beneficiaries, only to the extent that those benefits are not provided for by Medicare.

The Complainant, a retiree who is enrolled in Medicare Part A and Part B, received knee replacement surgery in November 2016. The charges for the Complainant's surgery and hospital stay were submitted to Medicare, his primary insurance coverage. Medicare reduced the charges to the allowed amount and paid \$12,506.71 to the provider. Medicare did not pay \$1,288.00, which was the Complainant's Medicare Part A (Hospital Insurance) deductible for 2016. The Respondent denied the \$1,288.00 charge, asserting that because it was the Complainant's deductible, it was not a covered benefit under the Plan. The Complainant paid the provider \$1,288.00, on his personal credit card in January 2017.

Since the Complainant is enrolled in the Medicare program, as required by the Employer Plan, he is entitled to benefits under the plan for covered services that Medicare, his primary insurance, does not pay. In this case, the Complainant was hospitalized for knee replacement surgery, which is a covered benefit under the Employer Plan. Medicare provided benefits for all the hospital charges that were incurred after the \$1,288.00 deductible was applied. This is a deductible that the Medicare program imposes. The Employer Benefit Plan does not have such a deductible. Rather, the Employer Benefit Plan requires that the entire cost of the Complainant's hospitalization be paid as a covered benefit without regard to Medicare's deductible amount. Thus, the \$1,288.00, deductible is a covered benefit under the Employer Plan because it was incurred for covered services under the Employer Plan that were not paid for by Medicare.

There is no duplication of benefits in this case, because the deductible is a covered benefit under the Employer Plan but not by Medicare. Therefore, the Employer is responsible to provide benefits for the Complainant's Part A (Hospital Insurance) deductible, which was \$1,288.00 for 2016.

The Trustees previously delivered an opinion on this issue in ROD CA-031. The Opinion stated that the deductible for in-hospital charges is a covered benefit under the Employer Plan and held that the Employer was responsible for paying the Medicare Part A deductible.

#### Opinion of the Trustees

Pursuant to Article III A.(1)(a) and Article III A. (10) (d) of the Employer Benefit Plan, a beneficiary's Medicare Part A (Hospital Insurance) deductible is a covered benefit under the Plan. The Respondent is responsible for paying for the Complainant's Medicare Part A (Hospital Insurance) deductible, which was \$1,288.00 for 2016.