
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 07-0021

Trustees: Micheal W. Buckner, Daniel L. Fassio, and Michael H. Holland.

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 receiving an Age 55 Pension from the 1974 Pension Trust with an effective date of May 1, 2004. Late in 2005, the Respondent sent notices to its Pensioners informing them that to keep their health benefits all Medicare eligible individuals must enroll in Medicare Parts A, B and D.

The Complainant was receiving health benefits from his employer when he became Medicare-eligible March 1, 2006, due to being awarded Social Security Disability Insurance benefits. The Complainant did not sign up for Medicare Part B when he became Medicare eligible, claiming he did not know that he needed to be enrolled in Medicare Part B in order to keep his health benefits from the Respondent, but he did enroll in Medicare Part D in April 2006.

In March 2007, the Complainant contacted the Respondent to arrange for reimbursement of his Medicare Part D premiums, at which time the Claimant informed the Respondent that he was not enrolled in Medicare Part B. The Respondent terminated Complainant's health benefits effective April 2007 for failure to enroll in Medicare Part B.

The Complainant has enrolled in Medicare Part B effective July 1, 2008. The Respondent has agreed to reimburse the Complainant for Medicare Part D premiums from July 2008 on, but asserts that the Complainant is not entitled to reimbursement for the Part D premium paid at the time he was eligible for, but not enrolled in, Part B.

Dispute

Is the Respondent responsible for reimbursing the Complainant for Medicare Part D premiums for the time Complainant was eligible for, but not enrolled in, Medicare Part B?

Positions of the Parties

Position of the Complainant: The Respondent required enrollment in Medicare Part D and, therefore, should reimburse the Complainant for all premiums paid.

Position of the Respondent: The Complainant is not entitled to reimbursement for the Medicare Part D premiums during the time he was eligible for, but not enrolled in, Medicare Part B.

Pertinent Provisions

Article III. A. (10)(d) of the Employer Benefit Plan provides:

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.

2. For Employees age eligible for Medicare the benefits provided under the Plan will be paid to a Beneficiary unless the company is furnished written notice of electing coverage under Medicare rather than coverage under the Plan. Alternatively, the participant may elect to enroll for Medicare as secondary payer.

The Plan Administrator shall give written notification of the obligation to enroll with respect to 1. above and of the options to enroll with respect to 2. above. For active Employees such notice shall be given prior to their Medicare-eligibility birthdays, but subsequent to their immediately preceding birthdays. Said notice shall explain the limited annual enrollment period and the effect of failing to enroll if retirement should occur prior to the next enrollment period. Failure to provide such notification shall not remove any obligation to enroll.

Discussion

The Respondent claims that the Complainant's failure to enroll in Medicare Part B is cause for denying the reimbursement of the Part D premium paid by the Complainant. Article III A. (10)(d) of the Employer benefit Plan states that the benefits provided under the Plan will not be paid to a beneficiary otherwise eligible unless the beneficiary is enrolled in each part of Medicare for which he is eligible.

In ROD 02-029, the Employer required its Medicare-eligible beneficiaries to enroll in Medicare Parts A, B and D to retain their health benefits under the Employer Benefit Plan. Prior RODs made it clear that the Employer could require its beneficiaries to enroll in Medicare Part A, unless a premium was required, and Medicare Part B, if they were eligible for both, to retain their health benefits under the Employer Benefit Plan (See RODs 88-659, 88-644, 88-205, and 84-516). Ultimately, the Trustees deadlocked on the issue of whether an Employer could require its beneficiaries to enroll in Medicare Part D to retain their health benefits. The arbitrator adopted the opinion that the Employer's requirement that their beneficiaries enroll, at the beneficiaries' own cost, in Medicare Part D is a violation of the Employer Benefit Plan and the National Bituminous Coal Wage Agreement.

The Complainant, a Pensioner, failed to enroll in Medicare Part B when he first became eligible in March 2006, as a result of having been awarded Social Security Disability Insurance benefits. Complainant did, however, enroll in Medicare Part D in April 2006. During a subsequent open enrollment period he enrolled in Medicare Part B, and that coverage became effective on July 1, 2008.

Complainant seeks reimbursement of the Medicare Part D premiums he paid during the time he was eligible for, but not enrolled in, Medicare Part B, and asserts that he was unaware of the requirement that he enroll in Medicare Part B. Article III. A.(10)(d)2. of the Employer Benefit Plan provides that the Plan Administrator shall give written notification of a Beneficiary's obligation to enroll in each part of Medicare for which he is eligible. The Respondent contends that it sent a notice to Complainant informing him of the obligation to enroll in Medicare to retain eligibility under the Employer Benefit Plan. The Trustees note that while the Employer Benefit Plan contains a requirement that the Employer notify in writing a Medicare-eligible beneficiary of the obligation to enroll in Medicare, the Employer Benefit Plan clearly states that failure to provide such notification does not remove the beneficiary's obligation to enroll in Medicare Parts A & B. In RODs 84-516 and 84-679 the Pensioners' stated reasons for failing to enroll in Part B were that they were not notified by the Employers of the Medicare enrollment requirement. In both cases, the Trustees concluded that the Employers were not required to provide health benefits for the Complainants during the period when the Complainants were eligible for, but not enrolled in Medicare Part B as required under the Employer Benefit Plan.

The Complainant is receiving an Age 55 Pension from the 1974 Pension Trust. He became eligible for Medicare Parts A & B in March 2006 but failed to enroll in Part B upon his initial eligibility. While ROD 02-029 holds that the Employer's requirement that beneficiaries enroll, at the beneficiaries' own cost, in Medicare Part D is a violation of the Employer Benefit Plan and the National Bituminous Coal Wage Agreement, Article III.A. (10)(d)1. of the Employer Benefit Plan clearly states that an Employer is not required to provide health benefits for a Pensioner who is eligible for, but not enrolled in, Medicare Parts A & B. Because the Complainant did not enroll in Medicare Part B when he first became eligible, and the effective date of that enrollment is July 1, 2008, the Respondent is not responsible for the payment of health benefits coverage from March 1, 2006 through June 30, 2008. The Respondent is not responsible for reimbursement of the Medicare Part D premiums Complainant paid over this same time period because prescription drug coverage is a benefit payable under the Employer Benefit Plan and Complainant was not eligible for such coverage during the period that he was eligible for, but not enrolled in, Medicare Part B.

Opinion of the Trustees

The Respondent is not required to reimburse the Complainant for the premiums Complainant paid to receive Medicare Part D coverage during the period the Complainant was eligible for, but did not enroll in, Medicare Part B.