
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-103 - December 18, 1985

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., 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 by the Employer under the terms of the Employer Benefit Plan for a Pensioner who has not enrolled in Medicare.

Background Facts

The Complainant, who was born on December 25, 1919, applied for pension benefits under the UMWA 1974 Pension Plan on March 15, 1982. On August 24, 1983, the Funds notified the Complainant by letter that based upon his thirty-seven and one half (37 1/2) years of classified service and upon having attained age 62, it had been determined that the Complainant was eligible to receive a pension, effective July 1, 1983.

The Complainant did not enroll in Medicare Parts A and B during the enrollment period prior to his having attained age 65 on December 25, 1984. The Complainant has stated that the Respondent did not provide him with written notification of his responsibility to enroll in Medicare. Accordingly, the Complainant contends that in the absence of proper notification, the Respondent should be responsible for the provision of health benefits coverage after December 25, 1984 until the Complainant is able to enroll in Medicare.

The Respondent has denied responsibility for the provision of health benefits coverage beyond December 25, 1984 stating that a Pensioner who is eligible for, but who has not enrolled in Medicare Part A and/or Part B, is therefore not eligible to receive health benefits coverage pursuant to Article III A. (10)(d)(1) of the Employer Benefit Plan. The Respondent states that Article III A. (10)(d) of the Plan also provides that an Employer's failure to provide written notification of an Employee's responsibility to enroll in the Medicare coverages for which he is eligible shall not remove the Employee's obligation to enroll. In conclusion, the Respondent states that the Complainant received notification of his obligation at the time he received a copy of the Employer Benefit Plan.

Dispute

Is the Respondent responsible for providing health benefits coverage for the Complainant during the period that the Complainant was eligible for but failed to enroll in Medicare Part A and/or Part B?

Position of the Parties

Position of the Complainant: Inasmuch as the Respondent did not provide written notification at the time the Complainant was eligible to enroll in Medicare Part A and/or Part B, the Respondent is responsible for the provision of health benefits coverage beyond December 25, 1984 until the Complainant is again eligible for Medicare enrollment.

Position of the Respondent: Inasmuch as the Complainant did not enroll in Medicare, the Respondent is not responsible for the provision of health benefits coverage beyond December 25, 1984. The Complainant received adequate notification of his obligation to enroll at the time he received a copy of the Employer Benefit Plan.

Pertinent Provisions

Articles I (1), (2) and (5) of the Employer Benefit Plan provide:

Article I - Definitions

The following terms shall the meanings herein set forth:

- (1) "Employer" means (coal company.).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1984, as amended from time to time and any successor agreement.
- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph or any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan.

Articles II B. (1)(a) and (b) of the Employer Benefit Plan provide:

Article II - Eligibility

The persons eligible to receive health benefits pursuant to Article III are as follows:

B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows:

(1) Any Pensioner who is not again employed in classified signatory employment subsequent to

(a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and

(b) October 1, 1984,

shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this Plan. Notwithstanding (i) and (ii) of the definition of Pensioner in Article I (5) of this Plan, any such Pensioner who was eligible for benefits under the 1974 Benefit Plan as a Pensioner on December 5, 1977, shall be eligible for such benefits, subject to all other provisions in this Plan.

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

Article III - Benefits

A. Health Benefits

(10) General Provisions

(d) Medicare

1. For Employees age 70 and over, 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.

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 65th birthdays, but subsequent to their

64th 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 Complainant, who was born on December 25, 1919, receives a pension under the UMWA 1974 Pension Plan, effective July 1, 1983. Inasmuch as the Complainant satisfies the definition of Pensioner as set forth in Article I (5) of the Employer Benefit Plan, the Complainant is eligible to receive health benefits coverage as a Pensioner under Article II B. (1) of the Plan.

The Complainant has stated that the Respondent did not provide written notification of his responsibility to enroll in Medicare Part A and/or Part B. The Respondent has stated that the Complainant received adequate notification upon the receipt of a copy of the Employer Benefit Plan.

Article III A. (10)(d) of the Employer Benefit Plan provides that health benefits coverage will not be provided to any Pensioner who is eligible for but who does not enroll in Medicare. Furthermore, Article III A. (10)(d) states that the Plan Administrator "shall give written notification of the obligation to enroll..."; however, failure to provide such notice "shall not remove any obligation to enroll." Inasmuch as the Complainant received a copy of the Employer Benefit Plan, yet failed to enroll in the Medicare coverages for which he was eligible, the Trustees are of the opinion that the Respondent is not responsible for the provision of health benefits coverage for the Complainant after December 25, 1984 and prior to his enrollment in Medicare.

Opinion of the Trustees

The Respondent is not responsible for the provision of health benefits coverage for the Complainant during the period December 25, 1984 until Medicare coverage becomes effective, as the Complainant failed to enroll in Medicare as required under the Employer Benefit Plan.