
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-448 - January 19, 1988

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 Pensioner is disabled as a result of an injury sustained on September 28, 1977, while working in a classified position for the Employer. The Pensioner was initially awarded Social Security Disability Insurance ("SSDI") benefits for a closed period of disability from November 1977 through October 1979. The Pensioner was later awarded SSDI-benefits by decision of an Administrative Law Judge, effective October 1980. His application for a Disability Pension under the UMWA 1974 Pension Plan was approved effective November 1, 1977,

The Pensioner states that in October 1986 he had heart surgery, and the Employer refused to provide health benefits for the surgery because he was eligible for, but had not enrolled in Medicare Part B. The Pensioner claims that he did not know he was required to enroll in Medicare Part B and that neither the Employer nor the Employer's insurance carrier notified him of any such requirement. The Pensioner has since enrolled in Medicare Part B, effective July 1, 1987.

The Employer has stated that individuals receiving SSDI benefits are eligible to enroll in Medicare upon receiving their 25th check. The Employer claims that on two separate occasions - in March 1978 and in June 1985 - it provided the Pensioner with Summary Plan

Descriptions of the Employer Benefit Plans, including the provision regarding the requirement to enroll in Medicare. The Employer also claims that the Pensioner was notified by the Social Security Administration of his eligibility for Medicare Parts A and B, but he specifically elected not to enroll in Part B. The Employer has denied payment of medical bills incurred by the Pensioner during the period he was eligible for, but not enrolled in Medicare Part B.

Dispute

Is the Employer responsible for providing health benefits coverage for the Pensioner during the period that the Pensioner was eligible for, but not enrolled in Medicare Part B?

Positions of the Parties

Position of the Pensioner: The Employer is responsible for the provision of health benefits for the Pensioner during the period he was not enrolled in Medicare Part B, from October 1, 1982 through June 30, 1987, because he was not informed that such enrollment was required.

Position of the Employer: The Employer is not responsible for the provision of health benefits for the Pensioner during the period he was eligible for, but not enrolled in Medicare Part B. The Complainant received adequate notification of his obligation to enroll when he received copies of the Employer Benefit Plans.

Pertinent Provisions

Article III. A. (9)(d) of the 1978 Employer Benefit Plan and Article III.A. (10)(d) of the 1981 Employer Benefit Plan provide:

(d) Medicare

The benefits provided under the Plan will not be paid to any 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.

Article III. A. (10)(d) of the 1984 Employer Benefit Plan provides in part:

(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

Article III. A. (9)(d) of the 1978 Employer Benefit Plan and Article III. A. (10)(d) of the 1981 and 1984 Employer Benefit Plans stipulate that the benefits provided under the Plan will not be paid to a Beneficiary unless such Beneficiary is enrolled in each part of Medicare for which he is eligible. The Pensioner was eligible to enroll in Medicare, Parts A and B, upon receiving his 25th consecutive SSDI benefit payment in October 1982. The Pensioner states that he did not enroll in Medicare Part B at that time, because he did not know that such enrollment was required.

The relevant provisions of the 1978 and 1981 Employer Benefit Plans do not specify 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. However, the Employer has stated that a copy of its 1978 Benefit Plan, including the Medicare enrollment requirement, was provided to the Pensioner in March 1978 and constitutes advance written notice of his obligation to enroll in Medicare Part B. The Employer has stated that a copy of its 1984 Benefit Plan was also provided to the Pensioner in June 1985, prior to the date the medical charges in question were incurred, and constitutes further written notice of his obligation to enroll in Medicare Part B. The Trustees note that while the 1984 Employer Benefit Plan contains a requirement that the Employer provide written notification of a Beneficiary's obligation to enroll in Medicare, the

Plan clearly stipulates that failure to provide such notification does not remove the Beneficiary's obligation to enroll. Inasmuch as the Pensioner was eligible for Medicare Part B on October 1, 1982, but was not enrolled until July 1, 1987, the Employer is not responsible for the provision of health benefits for the heart surgery performed in October 1986.

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The Employer is not responsible for providing health benefits for the heart surgery performed in October 1986, as the Complainant failed to enroll in each part of Medicare for which he was eligible, as required under the Employer Benefit Plan.