
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-497 - January 28, 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 under the terms of the Employer Benefit Plan for a Pensioner who failed to enroll in Medicare.

Background Facts

The Complainant, who was born on February 11, 1923, is receiving an Age 55 retirement pension under the UMWA 1974 Pension Plan effective May 1, 1983. He was awarded Social Security Disability Insurance ("SSDI") benefits in April 1987, retroactive to April 1983. The Complainant states that he believed he enrolled in Medicare Part B as soon as it was possible to do so. A copy of the Complainant's Health Insurance (Medicare) card indicates that he was enrolled in Medicare Part A, effective April 1, 1985, and Medicare Part B, effective April 1, 1987.

In reply to a request for information, the Respondent furnished a copy of the Complainant's SSDI award letter advising him that he should have been entitled to Medicare Part B coverage beginning April 1985, and that he could elect coverage under Part B retroactively to April 1, 1985, within 30 days of receipt of the letter. The Respondent claims that it had also provided the Complainant with a copy of the Employer Benefit Plan, which contains adequate notification of his responsibility to enroll in each part of Medicare for which he is eligible. The Respondent claims that the Complainant enrolled in Medicare Part A effective April 1985 but did not elect the retroactive enrollment in Medicare Part B; therefore, the Respondent has denied payment of medical bills incurred by the Complainant for physician services rendered during his hospitalization from June 12, 1986 through July 3, 1986, prior to his enrollment in Medicare Part B.

Dispute

Is the Respondent responsible for the provision of health benefits for the Complainant during the period from April 1, 1985 through April 1, 1987; when the Complainant was eligible for, but did not enroll in Medicare Part B?

Positions of the Parties

Position of the Complainant: The Respondent is responsible for payment of the physician charges which were incurred by the Complainant in 1986 because he enrolled in Medicare Part B as soon as he was able to do so - on April 1, 1987.

Position of the Respondent: Inasmuch as the Complainant did not enroll in Medicare Part B retroactively to April 1, 1985, the Respondent is not responsible for the provision of health benefits coverage between April 1, 1985 and April 1, 1987, the date he did enroll. The Complainant received adequate notification of his option to enroll at the time he received his SSDI award certificate. The Employer Benefit Plan also provides adequate notification of a beneficiary's responsibility to enroll in each part of Medicare for which he is eligible.

Pertinent Provisions

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

(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.

2. For Employees age 65 to 70 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 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.

Article III. A. (11)(a) 3. of the Employer Benefit Plan states:

(11) General Exclusions

(a) In addition to the specific exclusions otherwise contained in the Plan, benefits are also not provided for the following:

3. Services furnished by any governmental agency, including benefits provided under Medicaid, Federal Medicare and Federal and State Black Lung Legislation for which a beneficiary is eligible or upon proper application would be eligible.

Discussion

Article III. A. (11)(a) 3. of the Employer Benefit Plan excludes from coverage benefits provided under Federal Medicare "for which a beneficiary is eligible, or upon proper application would be eligible."

Article III. A. (10)(d) of the Employer Benefit Plan stipulates that the benefits provided under the Plan will not be paid to a Pensioner who is eligible for Medicare unless such Pensioner is enrolled in each part of Medicare for which he is eligible. In April 1987, the Complainant was awarded SSDI benefits retroactively to April 1983. As a result, he was automatically enrolled in Medicare Part A retroactive to the date he became eligible for Medicare coverage, April 1, 1985. He was also notified by the Social Security Administration of his eligibility to elect coverage under Medicare Part B, retroactive to April 1, 1985. He did not exercise the option for retroactive coverage. The Pensioner states that he believes he enrolled in Medicare Part B as soon as he was able to do so, on April 1, 1987, and that he should not be held responsible for medical charges incurred prior to that date.

Article III. A. (10)(d) of the 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 Plan Administrator stated that a copy of the Employer's Benefit Plan with this information was distributed to the Complainant and constitutes written notice of his obligation to enroll in Medicare Part B. The Trustees note that while the Plan contains a requirement that the Employer notify in writing a Medicare-eligible beneficiary of the obligation to enroll, the Plan clearly stipulates that failure to provide such notification does not remove the Beneficiary's obligation to enroll. Since the Complainant was retroactively eligible for Medicare Part B and did not elect his option to enroll effective April 1, 1985, the Complainant is not eligible to receive those benefits provided under the Employer Benefit Plan from April 1, 1985 until April 1, 1987, when he did enroll.

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Opinion of the Trustees

The Respondent is not responsible for the provision of health benefits for the Complainant during the period April 1, 1985 through April 1, 1987, as the Complainant failed to enroll in Medicare Part B as required under the Plan.