
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-637 - July 12, 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 under the Employer Benefit Plan for a Pensioner's spouse who failed to enroll in Medicare Part B.

Background Facts

The Pensioner is receiving an Age 55 retirement pension under the UMWA 1974 Pension Plan effective July 1, 1983. He attained age 65 on December 15, 1986 and was enrolled in Medicare Part A effective December 1, 1986. His wife attained age 65 on February 19, 1986 and was enrolled in Medicare Part A on February 1, 1986. The Pensioner states that he and his wife did not enroll in Medicare Part B at the time they became eligible because the Employer did not notify them of the enrollment requirement. He claims that the Summary Plan Description booklet states that they must enroll in Medicare Part B only upon his attaining age 70.

The Pensioner's spouse, now deceased, incurred medical expenses related to treatment for metastatic carcinoma of the brain from March 11, 1986 through May 9, 1987. The Employer has refused to provide benefits for her medical care because she was eligible for, but not enrolled in, Medicare Part B during that period.

The Employer states that Article III. A. (10)(d) of the Employer Benefit Plan requires Employees age 70 and over, Pensioners and Surviving Spouses to enroll in each part of Medicare for which they are eligible. The Employer states that this provision is applicable to the Complainant because he is a pensioner under the UMWA 1974 Pension Plan. The Employer has further stated that the Pensioner was notified of the obligation to enroll in Medicare Part B when he received a copy of the Summary Plan Description booklet. The Employer further states that under Article III. A. (10)(d) of the Employer Benefit Plan, an Employer's failure to provide written notification of a Beneficiary's responsibility to enroll in the Medicare coverage for which he is eligible shall not remove the Beneficiary's obligation to enroll.

Dispute

Is the Employer responsible for providing benefits for the Pensioner's spouse during the period from March 11, 1986 through May 9, 1987 when she was eligible for, but not enrolled in, Medicare Part B?

Positions of the Parties

Position of the Pensioner: The Employer is responsible for providing health benefits for the Pensioner's spouse during the period March 11, 1986 through May 9, 1987 when she was not enrolled in Medicare Part B, because he was not informed that enrollment in Medicare Part B was required.

Position of the Employer: The Employer is not responsible for the provision of health benefits for the Pensioner's spouse during the period from March 11, 1986 through May 9, 1987, when she was eligible for, but not enrolled in Medicare Part B. The Pensioner received adequate notification of the obligation to enroll at the time he received a copy of the Employer Benefit Plan.

Pertinent Provisions

Article III. A. (10)(d) of the 1984 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.

Discussion

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

The Plan states that active Employees may elect to delay coverage under Medicare until age 70; however, the Plan does not provide such an option to Pensioners. Inasmuch as the Complainant is a Pensioner, both he and his spouse were required to enroll in Medicare Part B when they first became eligible, upon attaining age 65.

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 Employer states that the Pensioner was notified of the obligation to enroll in Medicare Part B when he received a copy of the Summary Plan Description booklet. The Pensioner states that he was not notified by the Employer of his obligation to enroll himself and his wife in Medicare when they attained age 65. The Trustees note that while the Plan contains a requirement that the Employer notify in writing a Medicare-eligible Beneficiary of his obligation to enroll, the Plan clearly stipulates that failure to provide such notification does not remove the Beneficiary's obligation to enroll himself and his eligible dependent. Since the Pensioner's spouse was eligible for Medicare Part B effective February 1, 1986 but failed to enroll, the Employer is not responsible for the provision of health benefits for the Pensioner's spouse between March 11, 1986 and May 9, 1987.

Opinion of the Trustees

The Employer is not responsible for providing health benefits for the Pensioner's spouse between March 11, 1986 and May 9, 1987.