
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-205 - February 15, 1990

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 Part 8.

Background Facts

The Pensioner is receiving a normal retirement pension under the UMWA 1974 Pension Plan, effective March 1, 1988. He attained age 65 on November 29, 1988. He was enrolled in Medicare Part A, effective November 1, 1988, but he did not enroll in Medicare Part 8. The Pensioner indicates that the Employer has refused to provide health benefits for services rendered during the period in which he was eligible for, but not enrolled in, Medicare Part B. The Pensioner asks that the Employer pay only that portion of his medical expenses for which it would have been responsible as secondary payer had he 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 8?

Positions of the Parties

Position of the Pensioner: The Pensioner admits that he forgot to enroll in Medicare Part B; he asks that the Employer pay only that portion of his medical expenses for which it would have been responsible as secondary payer had he enrolled in Medicare Part B.

Position of the Employer: The Employer is not required to provide health benefits for any portion of the Pensioner's medical expenses incurred during the period he was eligible for, but not enrolled in, Medicare Part B. The Pensioner received adequate notification of his obligation to enroll when he received the Summary Plan Description (SPD), which contained provisions

concerning 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 provides in pertinent part:

(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 8) 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. (10) (d) of the Employer Benefit Plan stipulates 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 for Medicare Part 8 on November 1, 1988, but failed to enroll. Therefore, under the clear and unequivocal language of Article III. A. (10) (d), the Employer is not required to provide health benefits for the Pensioner from November 1, 1988 until such time as the Pensioner is enrolled in each part of Medicare for which he is eligible.

Opinion of the Trustees

The Employer is not required to provide health benefits for the Pensioner during the period the Pensioner was eligible for, but did not enroll in, Medicare Part 8, consistent with the terms of the Employer Benefit Plan.